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ARTICLE ONE

GENERAL PROVISIONS

101 Title

This title of the Fremont Municipal Code shall be known as the Zoning Ordinance of the City of Fremont.

102 Jurisdiction

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Fremont and its two-mile extra-territorial jurisdiction as provided by Chapter 19, Article 9, Sections 19-901 through 19-929, and Chapter 16, Article 9, Sections 16-901 through 16-904, Revised Statutes of Nebraska, 1943.

103 Purpose

The purposes of the Zoning Ordinance of the City of Fremont are to:

- a. Serve the public health, safety, and general welfare of the city and its jurisdiction.
- b. Classify property in a manner that reflects its suitability for specific uses.
- c. Provide for sound, attractive development within the city and its jurisdiction.
- d. Encourage compatibility of adjacent land uses.
- e. Protect environmentally sensitive areas.
- f. Further the objectives of the Comprehensive Development Plan of the City of Fremont.

104 Consistency with Comprehensive Development Plan

The City of Fremont intends that this Zoning Ordinance and any amendments to it shall be consistent with the City's comprehensive Development Plan. It is the City's intent to amend this ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

105 Conflicting Provisions

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the City of Fremont, or any applicable State or Federal law, the more restrictive provision shall apply.

106 Relief from Other Provisions

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

107 Severability of Provision

If any chapter, section, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

108 Publication

This Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, shall be filed with the City Clerk of the City of Fremont, Nebraska.

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ARTICLE TWO

DEFINITIONS

201 Purpose

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout the Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

202 General Construction of Language

The following general rules of construction apply to the text of the Zoning Ordinance.

a. Headings

Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of the Zoning Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

c. Shall and May

“Shall” is always mandatory. “May” is discretionary.

d. Tenses and Numbers

Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

e. Conjunctions

Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. “And” indicates that all connected items or provisions apply.
2. “Or” indicates that the connected items or provisions may apply singly or in any combination.
3. “Either ... or” indicates that the connected items or provisions shall apply singly but not in combination.

DEFINITIONS

f. Referenced Agencies

Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the City of Fremont.

203 Definition of Terms

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

204 A

1. **Abutting:** Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.
2. **Accessory Structure:** A structure which is incidental to and customarily associated with a specific principal use or building on the same site.
3. **Accessory Use:** A use which is incidental to and customarily associated with a specific principal use on the same site.
4. **Addition:** Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
5. **Agent of Owner:** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
6. **Alley:** A public right of way, other than a street and twenty feet or less in width which is used as a secondary means of access to abutting property.
7. **Alteration:** Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
8. **Apartment:** A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
9. **Attached:** Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.

205 B

1. **Base Zoning District:** A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.
2. **Basement:** A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
3. **Beginning of Construction:** The initial incorporation of labor and materials within the foundation of a building or structure.

DEFINITIONS

4. Block: An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse, lake, railroad, or other significant natural or man-made barrier, and which has been designated as such on a plat for the purposes of legal description of a property.
5. Block Face: The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Fremont.
6. Board of Adjustment: A body, established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.
7. Bufferyard: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
8. Building: A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.
9. Building Coverage: The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.
10. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.
11. Building Line: The outer boundary of a building established by the location of its exterior walls.
12. Building Official: The city official, designated by the City Manager, who is responsible for the enforcement of the applicable building code and conditional uses.
13. Building Permit: A document that must be issued by the Building Official prior to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure regulated by this Ordinance or by the applicable building codes of the City of Fremont. Issuance of a building permit follows review of plans by the Building Official to determine that the proposed use of building or land complies with the provisions of the Zoning Ordinance.
14. Business: Activities that include the exchange or manufacture of goods or services on a site.
15. Business Center: A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

206 C

1. Certificate of Occupancy: An official certificate issued by the Building Official or his/her designee prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Zoning Ordinance.
2. Change of Use: The replacement of an existing use by a new use.
3. City: The City of Fremont, Nebraska.
4. City Council: The City Council of Fremont, Nebraska.

DEFINITIONS

5. Common Area: An area held, designed, and designated for common or cooperative use within a development.
6. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.
7. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.
8. Compatibility: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
9. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Fremont.
10. Condominium: An ownership regime whereby the title to each unit of occupancy is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate. Condominiums may include residential, commercial, office, or industrial uses.
11. Conservation Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
12. Conservation (or Cluster) Subdivision: Wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.
13. County: Dodge County, Nebraska.
14. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.
15. Conventional Subdivision: A subdivision which literally meets all nominal standards of the Zoning and Subdivision Ordinances for lot dimensions, setbacks, street frontage, and other site development regulations.
16. Creative Subdivision: A subdivision which, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Conservation Subdivisions and Traditional Neighborhood Districts.

207 D

1. Density: The amount of development per specific unit of a site.
2. Drive-in Services: Uses which involve the sale of products or provision of services to occupants in vehicles.

DEFINITIONS

3. Detached: Fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.
4. Driveway: A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.
5. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family, as defined in Section 17.209(1), maintaining a household.

208 E

1. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.
2. Enclosed: A roofed or covered space fully surrounded by walls.

209 F

1. Family: One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than 4 of whom may be unrelated. The following persons shall be considered related for the purpose of this ordinance:
 - a. Persons related by blood, marriage, or adoption;
 - b. Persons residing with a family for the purpose of adoption;
 - c. Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
 - d. Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
 - e. Person(s) living with a family at the direction of a court.
2. Fascia: A parapet-type wall used as part of the facade of a flat-roofed building and projecting no more than six feet from the immediately adjacent building face. Such a wall shall enclose at least three sides of the projecting flat roof and return to the parapet wall or the building.
3. Federal: Pertaining to the Government of the United States of America.
4. Floor Area Ratio: The quotient of gross floor area of all buildings on a site divided by gross site area of the site.
5. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court from which access is permitted.

210 G

1. Garage: An accessory building or portion of a main building used primarily for storage of motor vehicles.
2. Grade: The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

DEFINITIONS

- a. For buildings having walls facing one street only, the grade shall be the elevation of the ground at the center of the wall facing the street.
 - b. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
 - c. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.
3. Gross Floor Area: The total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use. The floor area of buildings devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks, shall be determined on the basis of height in feet, with each ten feet of height being equivalent to one floor.

211 H

1. Height: The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.
2. Home-Based Business means a business that is operated out of a dwelling unit, which involves employment of up to two unrelated individuals who do not live in the dwelling unit. These uses are limited to office or service businesses. Home-based business does not include:
 - a. Wholesale or retail sales, except for sales distributors who fill orders for catalog type products and then make deliveries to the customer's home (as opposed to customers coming to the place of business.)
 - b. Activities that require commercial deliveries from trucks (as opposed to parcel services.)
3. Home Occupation: means any service, profession or occupation, which is conducted in a residence but does not change the essential character of the residential use. Home occupation does not include:
 - a. Wholesale or retail sales, except for sales distributors who fill orders for catalog type products and then make deliveries to the customer's home (as opposed to customers coming to the place of business.)
 - b. Activities that require commercial deliveries from trucks (as opposed to parcel services.)
 - c. Businesses that employ anyone other than residents of the dwelling unit.
4. Housing Unit or Dwelling Unit: A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.

DEFINITIONS

212 _ I

1. Impervious coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

213 _ J

214 K

215 L

1. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.
 - a. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.

DEFINITIONS

- b. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.
- 2. Lane: An approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:
 - a. Serves twelve or fewer housing units or platted lots.
 - b. Does not function as a local street because of its alignment, design, or location.
 - c. Is completely internal to a development.
 - d. Does not exceed 600 feet in length.
- 3. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.
- 4. Lot: A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Dodge County Register of Deeds. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have frontage on an improved public street or approved private street, except as provided in an approved Planned Unit Development and/or Creative Subdivision.
 - a. Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.
 - b. Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)
 - c. Interior Lot: A lot other than a corner lot.
 - d. Common Development Lot: When two or more contiguous lots are developed as part of a single development, these lots may be considered a single lot for purposes of this ordinance.
- 5. Lot Area: The total horizontal area within the lot lines of a lot.
- 6. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.
- 7. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.
 - 1. Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.
 - 1. For an interior lot, the lot line separating the lot from the right-of-way or easement.
 - 2. For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.
 - 3. For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time

DEFINITIONS

of application for the original building permit for the lot, or as may be noted on the final plat.

- b. Rear Lot Line: The lot line which is opposite and most distant from the front line.
 - c. Side Lot Line: Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
8. Lot Width: The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

216 M

1. Manufactured Home Dwelling: A factory built single-family dwelling, structure which is to be used as a place for human habitation, which is manufactured or constructed under the authority of 42 U.S. 3. Sec. 5403, Federal Manufactured Home Construction and Safety Standards promulgated by the US Department of Housing and Urban Development, and which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles, and which complies with the following architectural and aesthetic standards listed below. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling. In common with single-family detached dwellings, a manufactured home dwelling unit shall have the following characteristics:
 - a. The home shall have at least 900 square feet of floor area;
 - b. The home shall have an exterior width of at least 18 feet;
 - c. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
 - d. The exterior material is of a color, material, and scale comparable with those existing in the residential site on which the manufactured home dwelling is being permanently installed;
 - e. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
 - f. Permanent utility connections shall be installed in accordance with local regulations;
 - g. The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and
 - h. The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.
2. Mixed Use Building: A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.
3. Mixed Use Development: A single development which incorporates complementary land use types into a single development.

DEFINITIONS

4. Mobile Homes: A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings.
5. Mobile Home Park: A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.
6. Mobile Home Subdivision: A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage.

217 N

1. Nonconforming Development: A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time of construction.
2. Nonconforming Lot: A lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.
3. Nonconforming Sign: A sign that was legally erected prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.
4. Nonconforming Structure: A structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.
5. Nonconforming Use: A land use which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.
6. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

218 O

1. Open Space: Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.

DEFINITIONS

2. Outdoor Storage: The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.
3. Overlay District: A district established by this Ordinance to prescribe special regulations to be applied to a site only in combination with a base district.
4. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

219 P

1. Parking Facility: An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is distinct from parking, and is regulated by provisions in Sections 307b, 308, 309j, Table 4-2. Vehicle storage is also governed by provisions of Article 9: Parking Regulations.
2. Parking Spaces: An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with "parking stall". Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to have a means of access to a public street.
3. Paved: Permanently surfaced with poured concrete, concrete pavers, or asphalt.
4. Permitted Use: A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.
5. Planning Commission: The Planning and Zoning Commission of the City of Fremont, as authorized pursuant to Chapter 414, Code of Nebraska.
6. Planned Unit Development: A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
7. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.
8. Premises: A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
9. Principal use: The main use of land or structures as distinguished from an accessory use.
10. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.
11. Property Line: See "Lot Line."

220 Q

221 R

DEFINITIONS

1. Recreational Vehicle: A vehicle towed or self propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers.
2. Regulation: A specific requirement set forth by this Zoning Ordinance which must be followed.
3. Remote Parking: A supply of off-street parking at a location not on the site of a given development.

222 S

1. Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this ordinance.
2. Setback: The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
3. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
4. Site: The parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
5. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information that may be reasonably requested by the City in order that an informed decision can be made on the associated request.
6. Special Permit Use: A use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Planning Commission, as provided by Article 12 of this Ordinance.
7. State: The State of Nebraska.
8. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.
9. Street: A right of way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Nebraska Statute.
10. Street, Arterial: Street or highways intended to provide for through traffic movement between areas of the city or across the city. Major arterials usually imply relatively high speeds and traffic volumes, and are often subject to control of access to individual properties. Minor arterials are generally intended to provide trips of moderate lengths and imply lower operating speeds and more frequent points of local access than major arterial streets.

DEFINITIONS

11. Street, Collector: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
12. Street, Intersecting and Principal: In regard to a site, the principal street shall be the street to which the majority of lots on a block face are oriented; the intersecting street shall be a street other than a principal street.
13. Street, Local: A street which is used primarily for access to the abutting properties.
14. Street, Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan and are normally included in and eligible for assistance under the TEA-21 program.
15. Structure: Any object constructed or built and attached or anchored permanently or semi-permanently to the ground in such a way as to prevent routine movement.

223 T

1. Townhouse: A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.
2. Townhouse Structure: A building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.

224 U

1. Use: The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
2. Utilities: Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

225 V

226 W

227 X

228 Y

1. Yard; Required: That portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.
 - a. Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:
 - 1) The yard along the block face to which a greater number of structures are oriented; or

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- 2) The yard along a street that has the smaller horizontal dimension.
- b. Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.
- c. Side Yard: The space extending from the front setback line to the rear setback line, lying between the side yard setback line and the interior lot line.
- d. Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.
- e. Street Yard: The area between the horizontal face of the building parallel or generally parallel to the corridor.

229 Z

- 1. Zoning Administrator: The designee of the City Administrator responsible for the interpretation, administration, and enforcement of the Fremont Zoning Ordinance.
- 2. Zoning District: A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Ordinance.

3

ARTICLE THREE

USE TYPES

301 Purpose

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

302 Determinations

a. Classification of Uses

In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Fremont shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

b. Records

The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

303 Agricultural Use Types

Agricultural use types include the on-site production and sale of plant and animal products by agricultural methods.

a. Horticulture

The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

b. Crop Production

The raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

c. Animal Production

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of

USE TYPES

natural vegetation is the major feed source; or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.

d. Commercial Feedlots

The use of a site for the confined feeding or holding of livestock or poultry within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Livestock and poultry shall include any animal or fowl, which are used primarily for use as food or food products for human consumption, or for laboratory or testing, purposes. A Commercial Feedlot does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

e. Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

304 Residential Use Types

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

a. Single-Family Residential

The use of a site for one dwelling unit, occupied by one family. Mobile home units are not a single-family use type. See below categories for such units.

1. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.
2. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.

b. Duplex Residential

The use of a legally described lot for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.

c. Two-Family Residential

The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.

d. Townhouse Residential

The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical sidewalls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

USE TYPES

e. Multiple-Family Residential

The use of a site for three or more dwelling units within one building not otherwise defined as townhouse units.

f. Downtown Residential

The use of upper levels above street level of a building within the Central Business District of the City of Fremont for single- or multiple-family residential uses.

g. Group Residential

The use of a site for a residence by more than four unrelated persons, not defined as a family, on a weekly or longer basis.

h. Manufactured Home Residential

Use of a site for one or more manufactured home dwellings, as defined in Section 216.

i. Mobile Home Park

Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

j. Mobile Home Subdivision

Division of a tract of land into lots that meet all the requirements of the City of Fremont's subdivision ordinance for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.

k. Retirement Residence

A building or group of buildings which provide residential facilities for more than four residents of at least sixty years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

l. Residential Cluster

A housing development consisting of three or more buildings on a single plot of ground which is not subdivided into customary streets or lots, or where existing or contemplated streets or lot layouts make it impractical to apply the requirements of these regulations to the individual building units in such housing projects. Residential clusters are generally intended to be applied to lake or resort residential settings.

305 Civic Use Types

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.

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a. Administration

Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

b. Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

c. Clubs

Uses providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests.

1. Clubs (Recreational): Clubs, which provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs, private or nonprofit community or recreation centers, and private golf courses and driving ranges.
2. Clubs (Social): Clubs, which provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.

d. College and University Facilities

An educational institution of higher learning, which offers a course of study designed to culminate in the issuance of a degree, certified by a generally recognized accrediting organization.

e. Convalescent Services

A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

f. Cultural Services

A library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

g. Day Care Services (Limited)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than six (6) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

h. Day Care Services (General)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than six (6) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

i. Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

j. Emergency Residential Services

A facility exclusively used for or the exclusive use of a building to provide a protective sanctuary for victims of crime, abuse, mental illness, including emergency housing during crisis intervention for victims of rape, abuse, physical beatings, or mental illness.

k. Group Care Facility

A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for the care and short or long-term, continuous multi-day occupancy of more than three unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
3. Rehabilitation from the effects of drug or alcohol abuse.
4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work release, and probationary programs.

l. Group Home

A facility licensed by the State of Nebraska in no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation.

m. Guidance Services

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

n. Health Care

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors.

o. Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

USE TYPES

p. Maintenance Facilities

A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

q. Park and Recreation Services

Publicly owned and operated parks, playgrounds, recreation facilities including publicly owned community centers, and open spaces.

r. Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

s. Primary Educational Facilities

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Nebraska. A building or site established as a Primary Educational Facility on the effective date of this Ordinance shall be considered to remain in such use even if it later offers instruction at the junior high, middle school, or high school level.

t. Public Assembly

Facilities owned and operated by a public agency or a charitable nonprofit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

u. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Property Tax Code of the State of Nebraska shall constitute prima facie evidence of religious assembly use.

v. Safety Services

Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

w. Secondary Educational Facilities

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Nebraska.

x. Utilities (Major)

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission or delivery of electricity, gas, or energy media, communications, electric or electronic signals; or the production, delivery, collection, storage, or

treatment of water and sewage; or other services which are precedent to development and/or use of land.

306 Office Use Types

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

a. Corporate Offices

Use of a site for administrative, processing, or research offices, which generally does not provide service to clientele from Fremont and the surrounding region. Corporate offices are destinations for commuters drawn from a relatively wide region around Fremont, as well as from the community itself. Typical uses include corporate headquarters offices, telemarketing, or information processing offices.

a.1 Emergency Corporate Office

Use of a site for an Emergency Corporate (E.C.) office providing administrative, processing or financial services. This use does not invite public clientele and does not involve walk-in or drive-in services. External effects to the surrounding area are limited. Such sites are to be used only in the event of a disaster (fire, tornado, etc) at the normal operating site. Typical uses include corporate headquarters, telemarketing or information processing. The parking requirement standard for telemarketing may be reduced to provide a minimum of one space for two (2) work stations as part of a conditional use.

b. General Offices

Use of a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

c. Financial Services

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on-site by an office of a its primary financial institution is considered within the Personal Services Use Type.

d. Medical Offices

Use of a site for facilities, which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.

307 Commercial Use Types

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

a. Agricultural Sales and Service

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

b. Automotive and Equipment Services

Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. **Automotive Rental and Sales:** Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.
2. **Auto Services:** Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.
3. **Body Repair:** Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
4. **Equipment Rental and Sales:** Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
5. **Equipment Repair Services:** Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

c. Bed and Breakfast

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner or resident manager of the structure, include no more than eight units, and accommodate each guest or visitor for no more than 7 consecutive days during any one-month period.

d. Business Support Services

Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, messenger and delivery services, custodial or maintenance services, and convenience printing and copying.

USE TYPES

e. Business or Trade Schools

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

f. Campground

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 7 consecutive days during any one month period.

g. Cocktail Lounge

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

h. Commercial Recreation (Indoors)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators and which generally occur within the walls of a structure. Typical uses include theaters, private dance halls, billiard or bowling centers, game arcades, or private skating facilities.

i. Commercial Recreation (Outdoors)

Private businesses, or other organizations which may or may not be commercial by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators and which generally occur outside of the walls of a structure. Typical uses include commercial driving ranges, miniature golf facilities, amusement parks, commercial aquatics facilities, and drive-in theaters.

j. Communications Services

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

k. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

USE TYPES

l. Consumer Services

Establishments which provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

m. Convenience Storage

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

n. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food Sales establishments may include the sale of non-food items. However, The sales of non-food items may account for no more than the lesser of 25% of the sales area or 10,000 square feet of the Food Sales establishment. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.
2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.
3. General Food Sales: Establishments selling a wide variety of food commodities and related items, using facilities larger than 10,000 but less than 40,000 square feet. Typical uses include grocery stores and locker plants.
4. Supermarkets: Establishments selling a wide variety of food commodities, related items, and often providing a variety of non-food goods and services, using facilities larger than 40,000 square feet. Typical uses include large grocery stores.

o. Funeral Services

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

p. Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to regulations of the City of Fremont and/or the State of Nebraska.

q. Kennels

Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.

r. Laundry Services

Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

s. Liquor Sales

Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

t. Lodging

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

u. Personal Improvement Services

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools, health or physical fitness studios, music schools, reducing salons, dance studios, handicraft and hobby instruction.

v. Personal Services

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barbershops; seamstress, tailor, or shoe repair shops; photography studios; television or electronics repair; or dry cleaning stations serving individuals and households. Personal Services include establishments providing for the administration of massage or massage therapy carried out by persons licensed by the State of Nebraska under the provisions of chapters 148, 148A, 148B, 150, 150A, 151, 152, 157, or 158 of the Code of Nebraska when performing massage services as a part of the profession or trade for which licensed or persons performing massage services under the direction of a person so licensed; or persons performing massage services or therapy pursuant to the written direction of a licensed physician.

w. Pet Services

Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

x. Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

y. Restaurants

A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 per cent of the establishment's gross income.

1. Restaurant (Drive-in or Fast Food): An establishment, which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.
2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

z. Restricted (or Adult Entertainment) Businesses

Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Fremont, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.

aa. Retail Services

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). General Retail Services include:

1. Limited Retail Services: Establishments providing retail services, occupying facilities of 3,000 square feet or less. Typical establishments provide for specialty retailing or retailing oriented to Fremont and its surrounding vicinity.
2. Medium Retail Services: Establishments providing retail services, occupying facilities between 3,001 and 10,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general-purpose retailing oriented to Fremont and its surrounding vicinity.
3. Large Retail Services: Establishments providing retail services, occupying facilities between 10,001 and 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general-purpose retailing oriented to Fremont and its surrounding vicinity.

USE TYPES

4. Mass Retail Services: Establishments providing retail services, occupying facilities over 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for general-purpose retailing oriented to Fremont and the surrounding region.

bb. Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

cc. Surplus Sales

Businesses engaged in the sale, including sale by auction, of used items or new items, which are primarily composed of factory surplus or discontinued items. Surplus sales uses sometimes include regular outdoor display of merchandise. Typical uses include flea markets, auction houses, factory outlets, or merchandise liquidators.

dd. Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

ee. Vehicle Storage (Short-term)

Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

ff. Veterinary Services

Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries and crematoria, and veterinary hospitals for livestock and large animals.

308 **Parking Use Types**

a. Off-Street Parking

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

b. Parking Structure

The use of a site for a multilevel building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

309 **Industrial Use Types**

Industrial use types include the on-site extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

USE TYPES

a. Construction Yards

Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

b. Custom Manufacturing

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, candle making shops.

c. Light Industry

Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

d. General Industry

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

e. Heavy Industry

Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

f. Recycling Collection

Any site which is used in whole or part for the receiving or collection of any post-consumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

g. Recycling Processing

Any site which is used for the processing of any post-consumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

USE TYPES

h. Refuse Transfer Station

A facility to which solid waste is transported and stored temporarily within an enclosed structure, prior to being transported to a landfill or other permanent solid waste disposal facility.

i. Resource Extraction

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

j. Salvage Services

Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials, which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junkyards, or paper salvage yards.

k. Vehicle Storage (Long-term)

Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

l. Warehousing (Enclosed)

Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

m. Warehousing (Open)

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage.

310 **Transportation Use Types**

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

a. Aviation Facilities

Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

b. Railroad Facility

Railroad yards, equipment servicing facilities, and terminal facilities.

c. Transportation Terminal

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

d. Truck Terminal

A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

311 Miscellaneous Type Uses

a. Alternative Energy Production Devices

The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, or water-powered mills or generating facilities.

b. Amateur Radio Tower

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.

c. Communications Tower

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.

d. Construction Batch Plant

A temporary demountable facility used for the manufacturing of concrete, asphalt, or other paving materials intended for specific construction projects.

e. Landfill (Non-putrescible Solid Waste Disposal)

The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.

f. Landfill (Putrescible and Non-putrescible Solid Waste Disposal)

The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

g. Wind Energy Conservation System (WECS)

Any device, which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.

4

ARTICLE FOUR

ZONING DISTRICT REGULATIONS

401 Purpose

Article Four presents the Zoning District Regulations. Zoning Districts are established in the Zoning Regulations to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

402 Establishment of Districts

The following base districts and overlay districts are hereby established. Table 4-1 displays the purposes of these districts.

<u>BASE ZONING DISTRICTS</u>	<u>DISTRICT NAMES</u>
AG	Agricultural/Urban Reserve District
RR	Rural Residential District
RL	Lake and River Residential
R-1	Single-Family Residential District
R-2	Moderate-Density Residential District
R-3	Mixed-Density Residential District
R-4	High-Density Residential District
R-5	Mobile Home Residential District
UC	Mixed Use Urban Corridor District
LC	Limited Commercial/Office District
CC	Community Commercial District
DC	Downtown Commercial District
GC	General Commercial District
BP	Business Park District
LI	Limited Industrial District
GI	General Industrial District

SPECIAL AND OVERLAY DISTRICTS

MU	Mixed Use District
PD	Planned Development District
NC	Historic and Neighborhood Conservation Overlay District
SC	Special Corridor Overlay District
TND	Traditional Neighborhood Development District
FP/FW	Floodplain/Floodway Overlay District

403 Application of Districts

A base district designation shall apply to each lot or site within the city and its planning jurisdiction. A site must be in one base district.

Overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation. The Mixed Use District may stand alone as a base district.

404 Hierarchy

References in the Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 4-2, and shall represent a progression from the AG Agricultural District as the least intensive to the GI General Industrial District as the most intensive. The Overlay Districts shall not be included in this reference.

405 Development Regulations

For each Zoning District: Purposes are set forth in Table 4-1; Uses permitted are set forth in Table 4-2; Development Regulations are set forth in Tables 4-2 and Site Development Regulations are presented in Table 4-3.

Supplemental Regulations may affect specific land uses or development regulations in each zoning district. The applicable Supplemental Regulations are noted in Table 4-2.

406 Zoning Map

a. Adoption of Zoning Map

Boundaries of zoning districts established by this Zoning Regulations shall be shown on the Zoning Map maintained by the City Clerk. This map shall bear the signature of the Mayor attested by the City Clerk under the certification that this is the Official Zoning Map referred to by this Ordinance. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with these Regulations. Said Zoning Map shall be on file with the City Clerk and shall be readily accessible to the public at Fremont City Hall.

b. Changes to the Zoning Map

The city council may from time to time adopt a new official zoning map which shall supersede the prior official zoning map, in the event that the official zoning map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

407 Interpretation of District Boundaries

The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

ZONING DISTRICT REGULATIONS

- a. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.
- b. Where district boundaries are indicated as within street or alley, railroad, streams or creeks, or other identifiable rights-of-way, the centerline of such rights-of-way shall be deemed the district boundary.
- c. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.
- d. Where district boundaries are indicated as approximately following corporate limits, such corporate limits shall be considered the district boundaries.
- e. Where district boundaries are indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines, such lines shall be considered the district boundaries.
- f. Boundaries not capable of being determined, as set forth in 407a through 407e shall be as dimensioned on the official Zoning Map or if not dimensioned shall be determined by the scale shown on the map.

408 Vacation of Streets and Alleys

Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

409 Annexation of Territory

All unimproved or agricultural territory, which may hereafter be annexed to the City, shall be considered as lying in the AG Agricultural District until such classification shall be changed as provided by this ordinance. Any improved property that is annexed into the city shall be zoned according to the zoning district that most nearly describes either its present use or the use proposed by Fremont's Comprehensive Development Plan. This zoning shall be established by the Planning Commission and the City Council at the time of annexation.

410 Required Conformance

Except as specified in this chapter, no building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this title for the district in which the building or land is located.

411 Lot Size Exception

- a. Notwithstanding any other provision of this Ordinance, the City Council may, after receiving a recommendation of the Planning Commission, approve the subdivision of lots of record or portions of lots of record, into parcels, which do not meet the minimum requirements of Table 4-3 of this Article. Such subdivision may only be approved when it can be shown that:
 1. The subdivision will not adversely alter the character of the neighborhood.
 2. In no case shall the width of a lot be less than 40 feet, depth less than 80 feet and the total area be less than 4,000 square feet.

ZONING DISTRICT REGULATIONS

3. Where, by reason of exceptional narrowness, shallowness or shape of specific piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property.
- b. Notwithstanding any other provision of this Ordinance, the City Council may, by a 4/5 vote, after receiving a recommendation of the Planning Commission, approve the subdivision of two non-conforming lots of record as of August 1, 1985, which do not meet the requirements of Table 4-3 and Article 411a of this section, provided all the following conditions are met:
 1. Both lots exceed 4,000 square feet after the subdivision.
 2. The lot being reduced in area is not reduced over 2.5% in area.
 3. Neither lot has ever been subdivided under this provision of the Ordinance previously.
 4. Said subdivision will not be detrimental to the character of the neighborhood.
- c. The City Council may, without recommendation from the Planning Commission, by a three-fourths vote, approve a variance to the minimum lot requirements in Subsection 411a-1 above, only if it is to validate a defective subdivision where an owner, prior to December 1991, has failed to comply with the requirement to obtain City Council approval for a subdivision of property, and the City Council feels Subsections 411a-1 and 411a-3 above are complied with. In considering said variance, the City Council may place any restrictions on the granting of said variance that the City Council feels is necessary to protect the adjacent property owners and the general public.
- d. The City Council may, upon recommendation of the Planning Commission, create a lot of less than the required area and/or frontage in any zoning district where it can be shown that: (1) the lot will be occupied and used only by a public utility with a franchise to operate in the City of Fremont and, (2) the lot will be owned by the City of Fremont.

ZONING DISTRICT REGULATIONS

Table 4-1: Purposes of Base Zoning Districts

Symbol	Title	Purpose
AG	Agricultural/ Urban Reserve	The AG District provides for and preserves the agricultural and rural use of land, while accommodating very low-density residential development generally associated with agricultural uses. This district is designed to maintain complete agricultural uses within the Fremont extra-territorial jurisdiction. In addition, land included in the Urban Reserve in the Comprehensive Plan should be retained in the AG District to prevent premature or inappropriate development.
RL	Lake and River Residential	This district provides for the residential and recreational use of land, accommodating very low and low-density residential environments generally abutting open water. It provides for the transition of environmentally sensitive and natural landscapes to land to very low and low-density forms of residential development that are designed to combine aspects of water sports and outdoor recreation. The district's regulations assure that density is developed consistent with: land use policies of the Fremont Comprehensive Plan regarding riparian woodlands, lake environments, and open space resources; levels of infrastructure; and environmentally sensitive development practices.
RR	Rural Residential	This district provides for the rural residential use of land, accommodating very low and low-density residential environments. It provides for the transition of agricultural land to low-density forms of residential development that are designed to combine aspects of urban living with rural life. The district's regulations assure that density is developed consistent with: land use policies of the Fremont Comprehensive Plan regarding rural subdivisions; levels of infrastructure; and environmentally sensitive development practices.
R-1	Single-Family Residential	This district is intended to provide for residential development, with gross densities generally below 4 units per acre. These areas are characterized by single-family dwellings on relatively large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.

ZONING DISTRICT REGULATIONS

Table 4-1: Purposes of Base Zoning Districts

Symbol	Title	Purpose
R-2	Moderate-Density Residential	This district is intended to provide for moderate density residential development, with gross densities generally between 4 and 8 units per acre. These developments are characterized by single-family dwellings on moderately sized lots along with low-density multi-unit residential structures such as duplexes and townhouses. It provides regulations to encourage innovative forms of housing development. It adapts to both established and developing neighborhoods, as well as transitions between single-family and multi-family areas. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
R-3	Mixed-Density Residential	This district is intended to provide for a mix of medium density residential environments, with gross densities ranging from 4 to 12 units per acre. It provides for a transition between lower and higher-intensity use districts, and incorporates limited office and commercial uses under certain conditions. Mixed density developments may contain single-family dwellings on moderately sized lots and low-density multi-unit residential structures such as duplexes, townhouses, and small multi-family buildings. Its regulations encourage innovative forms of housing development. It adapts to both established and developing neighborhoods, as well as transitions between single-family and multi-family areas.
R-4	Multiple-Family Residential	This district is intended to provide locations primarily for multiple-family housing, with supporting and appropriate community facilities. It also permits some non-residential uses such as offices through a special permit procedure to permit a mixing of uses that have relatively similar operating and development effects.
R-5	Mobile Home Residential	This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.
UC	Mixed Use Urban Corridor	This district recognizes the mixed-use character of major urban corridors, such as Military Avenue, Bell Street, Main Street, and Broad Street. These corridors sometimes accommodate a combination of residential, commercial, and office uses. Design standards maintain their character as important urban streets. The UC District may be combined with the SC Special Corridor Overlay District, to establish special performance standards for corridors in especially sensitive contexts.

ZONING DISTRICT REGULATIONS

Table 4-1: Purposes of Base Zoning Districts

Symbol	Title	Purpose
LC	Limited Commercial/Office	This district reserves appropriately located area for office development and a limited variety of low-impact commercial facilities which serve the needs of residents of surrounding residential communities. The commercial and office uses permitted are compatible with nearby residential areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.
CC	Community Commercial	This district is intended for commercial facilities, which serve the needs of markets ranging from several neighborhoods to the overall region. While allowed commercial and office uses are generally compatible with nearby residential areas, traffic and operating characteristics may have more negative effects on residential neighborhoods than those permitted in the LC District. CC Districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial subcenters.
DC	Downtown Commercial	This district is intended to provide appropriate development regulations for Downtown Fremont. Mixed uses are encouraged within the DC District. The grouping of uses is designed to strengthen the town center's role as a center for trade, service, and civic life.
GC	General Commercial	This district accommodates a variety of commercial uses, some of which have significant traffic or visual effect. These districts may include commercial uses which are oriented to services, including automotive services, rather than retail activities. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from residential districts.
BP	Business Park	This district is designed to promote the development of planned business parks that accommodate corporate offices, research facilities, and structures, which can combine office, distribution, and limited industrial uses. These facilities serve a more regional audience, but may provide services to local residents. They are characterized by extensive landscaping, abundant parking facilities, and good visual and pedestrian relationships among buildings.

ZONING DISTRICT REGULATIONS

Table 4-1: Purposes of Base Zoning Districts

Symbol	Title	Purpose
LI	Limited Industrial	This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.
GI	General Industrial	This district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility

ZONING DISTRICT REGULATIONS

Table 4-2 Permitted Uses by Zoning Districts

Use Types	AG	RR	RL	R-1	R-2	R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI	Addl Reg
Agricultural Uses																	
Horticulture	P	P	P	C	C	C	C	C		C	P	C	C				602a
Crop Production	P	P	P														
Animal Production	P	C	C														602b
Commercial Feedlots																	602c
Livestock Sales																	
Residential Uses																	
Single-Family Detached	P	P	P	P	P	P	P	P	P								603i,j
Single-Family Attached		C	C	C	P	P	P	P	P								603b
Duplex			C		P	P	P		P								
Townhouse ¹			C		P	P	P		P*			C					603c
Multiple-Family ¹ Less than 12 units per development						C	P		C*	C*	C	C	C				603d
Multiple-Family ¹ 12 units and over per development							P					C					605d
Downtown Residential ¹												C	C		C		603e
Group Residential ¹	C	C	C			C	P										603f
Manufactured Housing Residential	P	P	P	P	P	P	P	P	P								216
Mobile Home Park ¹								C									603g
Mobile Home Subdivision								P									603h
Retirement Residential ¹	C	C	C	C	P	P	P		P	C	C	C	C				
Residential Cluster ¹	C	C	C	C	C	C	C	C									603j

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit

Blank=Use Not Permitted

1. Use subject to Site Plan Approval, as set forth in Section 1202

ZONING DISTRICT REGULATIONS

Table 4-2 Permitted Uses by Zoning Districts

Use Types	AG	RR	RL	R-1	R-2	R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI	Addl Reg
Civic Uses																	
Administration		C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	
Cemetery ¹	P	P		P	P	P	P	P									
Clubs (Recreational) ¹	C	C	C	C	C	C	P	C	P	P		C	P	C	P	P	604a
Clubs (Social) ¹	C	C	C	C	C	C	P	C	P	P	P	P	P	P	P	P	604a
College/Univ ¹	C	C	C	C	C	C	P	C	P	P	P	P	P	P	P		
Convalescent Services ¹	C	C	C		C	C	P	C	P	P	P	C					
Cultural Services ¹	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P		
Day Care (Limited)	P	P	C	P	P	P	P	P	P	P	P	P	C	C	C	C	604b
Day Care (General) ¹	C	C	C	C	C	C	P	C	P	P	P	P	P	P	C	C	604b
Detention Facilities ¹													C		C	C	
Emergency Residential	P	P	P	P	P	P	P	P	P	P	P	P					
Group Care Facility ¹			C			C	P		C	C	P	P	P				604c
Group Home	C	P	C	P	P	P	P	P	C	C	P	P	P				
Guidance Services			C				P		P	P	P	P	P	P	P	P	
Health Care ¹		C	C				P		P	P	P	P	P	P	P	P	
Hospitals ¹		C					C		C	C	C	P	P	P	C	C	
Maintenance Facility ¹	C	C							C		C		P		P	P	
Park and Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Postal Facilities ¹									C	C	P	P	P	P	P	P	
Primary Education ¹	C	P	C	P	P	P	P	P	P	P	P	P	C				
Public Assembly ¹			C						C	C	C	P	P	C			
Religious Assembly ¹	P	P	P	P	P	P	P	P	P	P	P	P	P		C		
Safety Services ¹	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Secondary Educ ¹	C	C	C	C	C	C	P	C	P	C	C	C	C				
Utilities (Major) ¹	P	C	C	C	C	C	C	C	C	C	C	C	P	C	P	P	
Office Uses																	606
Corporate Offices ^{1,2}	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	611a,b
General Offices ²	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	611a,b
Financial Offices ¹									P	P	P	P	P	P	P	P	
Medical Offices ¹							C		P	P	P	P	P	P	P	C	
EC Office ¹											C	C	C	C	C	C	

P=Uses Permitted by Right C=Uses Permitted by Conditional Use Permit Blank=Use Not Permitted

1. Use subject to Site Plan Approval, as set forth in Section 1202
2. Use within a residential zoning district must also meet Permitted Uses by Zoning Districts for Home-Based Businesses and Home Occupations, see page 4-11, as well as all other applicable regulations related to Home-Based Businesses and Home Occupations.

ZONING DISTRICT REGULATIONS

Table 4-2 Permitted Uses by Zoning Districts

Use Types	AG	RR	RL	R-1	R-2	R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI	Addl Reg 606
Commercial Uses																	
Ag Sales/Service ¹											C	C	P		P	P	
Auto Rental/Sales ¹											C	P	P	C	P	P	605c
Auto Services ¹									C	C	P	P	P		P	P	605a,b
Bed and Breakfast ¹	C	C	C	C	C	C	C		P	P	P	P	P				605d
Body Repair ¹											C	C	P		P	P	605a
Business Support Services ¹									P	P	P	P	P	P	P	P	
Business/Trade School ¹											P	P	P	P	P	P	
Campground ¹	C	C	C								C		C				605e
Cocktail Lounge ¹			C						C		P	P	P	C	P	P	605h
Commercial Rec (Indoor) ¹			C						C	C	P	P	P	P	P	P	
Commercial Rec (Outdoor) ¹			C								C		C		C	C	
Communication Service ¹									P	C	P	P	P	P	P	P	
Construction Sale/Service ¹									C		C	C	P		P	P	
Consumer Service ¹									P	P	P	P	P	P	P		
Convenience Storage ¹											C		C		P	P	605f
Equip Rental/Sales ¹												C	P		P	P	605c
Equipment Repair ¹													P		P	P	605a
Food Sales (Convenience) ¹			C						P	C	P	P	P	P	P	P	
Food Sales (Limited) ¹									P	P	P	P	P	P	P	P	
Food Sales (General) ¹									C	C	P	P	P				
Food Sales (Super markets) ¹											P	P	C				
Funeral Service ¹						C	C		P	P	P	P	P	P	P	P	
Gaming Facilities ¹											C	C	C				
Home-Based Business	P	P	C	C	C	C	C										611a
Home Occupation	P	P	P	P	P	P	P	P									611b
Kennels ¹	P	C	C										C		P	P	605g
Laundry Services ¹												C	P		P	P	

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit

Blank=Use Not Permitted

1. Use subject to Site Plan Approval, as set forth in Section 1202

ZONING DISTRICT REGULATIONS

Table 4-2 Permitted Uses by Zoning Districts

Use Types	AG	RR	RL	R-1	R-2	R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI	Addl Reg
Commercial Uses																	
Liquor Sales ¹			C								P	P	P		C		605h
Lodging ¹			C						P		P	P	P	P	C	C	
Personal Improvement ²	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	611a,b
Personal Services ^{1,2}	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	611a,b
Pet Services ¹	C								P	P	P	P	P	P	P		
Research Services ¹									P	P	P	P	P	P	P	P	
Restaurants (Drive-in) ¹									C		P	C	P		C	C	605h
Restaurants (General) ¹									P	P	P	P	P	P	C	C	605h
Restricted Business ¹													C		C	P	605i
Retail Services ¹ (Limited)									P	P	P	P	P	C			
Retail Services (Medium)									C	C	P	P	P	C			
Retail Services (Large) ¹											P	C	P				
Retail Services (Mass) ¹											C	C	P				
Stables*	C	C	C														605j
Surplus Sales ¹												C	P		P	P	
Trade Services ¹									C		C	C	P	P	P	P	
Veh. Storage (Short-term) ¹									C				P		P	P	
Veterinary Services ¹	C	C							P	C	C	C	P		P	P	
Parking Uses																	
Off-Street Parking ¹	C								C		C	P	P	C	P	P	
Parking Structure ¹											C	P	C	C	P	P	

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit

Blank=Use Not Permitted

1. Use subject to Site Plan Approval, as set forth in Section 1202

2. Use within a residential zoning district must also meet Permitted Uses by Zoning Districts for Home-Based Businesses and Home Occupations, see page 4-11, as well as all other applicable regulations related to Home-Based Businesses and Home Occupations.

ZONING DISTRICT REGULATIONS

Table 4-2 Permitted Uses by Zoning Districts

Use Types	AG	RR	RL	R-1	R-2	R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI	Addl Reg
Industrial Uses																	
Agricultural Industry ¹															C	P	608a
Construction Yards ¹															P	P	608a
Custom Manufacturing									C		C	P	P	P	P	P	608a
Light Industry ¹														C	P	P	608a
General Industry ¹															P	P	608a
Heavy Industry ¹																C	608a
Recycling Collection ¹											C	C	C		C	C	608a
Recycling Processing ¹															C	C	608a
Refuse Transfer Station ¹																P	608a
Resource Extraction ¹	C	C	C													C	607a 608a
Salvage Services ¹																C	607b, 608a
Vehicle Storage (Long-term) ¹			C										C		P	P	608a
Warehousing (Enclosed) ¹	C											C	C	P	P	P	608a
Warehousing (Open) ¹															C	P	608a
Transportation Uses																	
Aviation ¹	C													C	C	C	
Railroad Facilities ¹												C	C	C	P	P	
Truck Terminal ¹													C		C	P	
Transportation Terminal ¹											P	P	P		P	P	
Miscellaneous Uses																	
Alternative Energy Production Devices	C	C	C	C	C		C	C	C	C		C	C	P	P	P	
Amateur Radio Tower	P	P	C	P	P		P	P	P	P	P	P	P	P	P	P	
Communications Tower	C	C	C	C(P)	C(P)	C(P)	C(P)	C(P)	C			C	C	P	P	P	610a
Construction Batch Plant ¹	C												C		C	P	
Landfill (Non-Putrescible) ¹																C	610b
Landfill (Putrescible) ¹																	610b
WECS	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	610c

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit

Blank=Use Not Permitted

1. Use subject to Site Plan Approval, as set forth in Section 1202

C(P) = Conditional at Public Sites Only

ZONING DISTRICT REGULATIONS

Table 4-3: Summary of Site Development Regulations

Regulator Minimum Lot Area (sq feet)	AG 20 Acres	RR 3 Acres	RL 4,000	R-1 6,500	R-2 4,000	R-3 4,000	R-4 4,000	R-5 3.0 Acre
Single-Family Detached	2 units per each 40 acres (Note 6)	3 Acres	6,000	7,500 (Note 1)	6,000 (Note 1)	6,000	6,000	4,000
Single-Family Attached	---		4,000	6,500	4,000	4,000	4,000	
Duplex, Townhouses	---		8,000	---	8,000	8,000	7,500	
Multi-Family	---		---	---	---	10,000	7,500	
Other Permitted Uses	---		10,000	7,500	10,000	10,000	7,500	
Minimum Lot Width (feet) (Note 9)								
Single-Family Detached	200	200	60	75	60	60	60	
Single-Family Attached			50		35	35	35	
Duplex			100		70	70	70	
Townhouses			40		35	25	25	
Multi-Family	200	200		100		100	70	
Other Permitted Uses			100		100	100	70	150
Site Area per Housing Unit (sq feet) by type of residential								
Single-Family Detached	20 Acres (Note 6)	3 Acres	6,000	7,500	6,000	6,000	6,000	5,000 per unit
Single-Family Attached			4,000	6,500	4,000	4,000	4,000	
Two-family, duplex			4,000		4,000	4,000	3,750	
Townhouse			3,000		3,000	3,000	2,500	
Multi-family					NA	2,500	1,750	
Minimum Yards (feet)								
Front Yard (Note 8)	50	30	25	25	25	25	25	50
Street Side Yard	50	18	15	15	15	15	15	50
Interior Side Yard (Note 2)								50
1 to 1.5 stories	50	10	10	7	5	5	5	
2-3 stories	50	15	15	9	7	7	9	
More than 3 stories	NA	NA	NA	NA	NA	NA	11	
Non-Residential Uses	50	40	20	20	20	20	20	
Rear Yard	50	20	20	20	20	20	20	50
Maximum Height (feet)	No Limit	35	35	35	35	35	45	35
Maximum Building Coverage	NA	20%	45%	35%	45%	45%	55%	40%
Maximum Impervious Coverage	NA	30%	60%	50%	60%	60%	70%	60%
Floor Area Ratio	NA	NA	NA	NA	NA	NA	NA	NA

ZONING DISTRICT REGULATIONS

Table 4-3: Summary of Site Development Regulations

	UC	LC*	CC*	DC	GC*
Minimum Lot Area (square feet)	4,000	None	6,000	None	6,000
Single-Family Detached	6,000	6,000			
Single-Family Attached	4,000	4,000			
Duplex, Townhouses	7,500	7,500			
Multi-Family	7,500	7,500	10,000		
Other Permitted Uses	7,500	7,500	6,000		
Minimum Lot Width (feet)				None	50
Single-Family Detached	60	60			
Single-Family Attached	40	40			
Duplex	70	70			
Townhouses Multi-Family	20	20			
Family	70	70	80		
Other Permitted Uses	60	60	50		
Site Area per Housing Unit (square feet) by type of residential					
Single-Family Detached	6,000	6,000			NA
Single-Family Attached	4,000	4,000			
Two-family, duplex	3,750	3,750			
Townhouse	2,500	2,500		2,000	
Multi-family	1,750	2,000	2,000	600	
Minimum Yards (feet) (Note 2)					
Front Yard	Note 4	Note 4	25	0	25
Street Side Yard (Note 6)	15	15	15	0	15
Interior Side Yard (Note 3)					
1 to 1.5 stories	5	5	0	0	0
2-3 stories	7	7	0	0	0
More than 3 stories	7	7	0	0	0
Rear Yard	20	20	25	0	25
			Note 5		Note 5
Maximum Height (feet) (Note 2)	45	45	50	50	50
Maximum Building Coverage	50%	50%	60%	100%	70%
Maximum Impervious Coverage	70%	80%	80%	100%	90%
Floor Area Ratio	1.0	0.50	1.0	No limit	1.0
	1.0				
Maximum Amount of Total Parking Located in Street Yard					
Residential	NA	NA	NA	NA	NA
Other Uses	35%	50%	No limit	35%	No limit

ZONING DISTRICT REGULATIONS

Table 4-3 Summary of Site Development Regulations

Regulator	BP	LI*	GI*
Minimum Lot Area (square feet)	10,000	5,000	5,000
Minimum Lot Width (feet)	80	50	50
Minimum Yards (feet)			
Front Yard	35	25	25
Street Side Yard	25	25	25
Interior Side Yard	10	0	0
Rear Yard	35	25	25
Maximum Height (feet)	40	Note 5 75	Note 5 No limit
Maximum Building Coverage	60%	70%	70%
Maximum Impervious Coverage	80%	90%	90%
Floor Area Ratio	2.0	1.0	No limit
Maximum Amount of Total Parking Located in Street Yard	50%	No limit	No limit

Notes to Preceding Pages: Table 4-3

Note 1:

For lots served by neither community water nor sewer systems, minimum lot size shall be 1 acre and minimum lot width shall be 200 feet. For lots served by community sewer systems only, minimum lot size shall be 20,000 square feet and minimum lot width shall be 100 feet. Single-family attached, duplex, two-family, or townhouse residential are permitted only on sites served by community sewer and water systems.

Note 2:

See Section 603 for supplemental regulations governing single-family attached and townhouse residential use types.

Note 3:

One foot of height may be added for each additional one foot provided in front, rear, and side yard setbacks beyond the required minimum.

Note 4:

Normal minimum setback is 25 feet. Front yard setback may be reduced to 15 feet if:

- i. No parking is placed within the street yard.
- ii. The entire street yard area is landscaped, with the exception of driveways to parking areas or pedestrian accesses to the principal building on the site.

Note 5:

Required rear yard may be reduced one foot for every one foot of front yard provided in excess of the minimum requirement. No rear yard may be less than 10 feet.

Note 6:

In AG zoning districts, the minimum lot area and site area per unit may be reduced to 10 acres, excluding road right-of-way, for current inhabitable farmstead sites existing prior to December 31, 2005, subject to approval of a conditional use permit.

Note 7:

Garage Setbacks: Any garage that fronts on a public street must be set back at least 25 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

Note 8:

Residential uses in the Lake and River Residential District that abut permanent open water (river, lake, or pond, etc.) shall consider the water frontage as the Front Lot Line.

Note 9:

Lots within the RL District for boat ramps and lake and river access may be less than the required minimum lot width.

* Uses in the **R-4, LC, CC, GC, HC, LI, and GI** Districts are subject to landscape and screening provisions contained in Article 8.

5

ARTICLE FIVE

SPECIAL AND OVERLAY DISTRICTS

501 General Purpose

Special and Overlay Districts recognize the presence of special community characteristics that traditional zoning districts do not adequately address. Special Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City of Fremont.

The Overlay Districts are designed to achieve the following objectives:

- a. To recognize special conditions in specific parts of the City which require specific regulation.
- b. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

MU MIXED USE DISTRICT

502 Purpose

The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the city which are appropriate for a mixture of residential, commercial, office, and accessory uses. The District permits mixing residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments.

503 Permitted Uses

Each ordinance establishing an MU District establishes the use types permitted within its boundaries.

504 Site Development Regulations

- a. The minimum area of any MU District is one acre.
- b. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council, following a recommendation by the Planning Commission. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.
- c. Applications for approval must contain at a minimum the following information:
 1. A detailed site map, including:
 - (a) a boundary survey
 - (b) site dimensions

SPECIAL AND OVERLAY DISTRICTS

- (c) contour lines at no greater than five foot intervals
 - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
 - (e) description of adjacent land uses
 - (f) utility service to the site and easements through the site
 - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
2. A development plan, including:
- (a) a site layout, including the location of proposed buildings, parking, open space, and other facilities
 - (b) location, capacity, and conceptual design of parking facilities
 - (c) description of the use of individual buildings
 - (d) description of all use types to be included in the project or area, and maximum floor area devoted to each general use
 - (e) maximum height of buildings
 - (f) schematic location and design of open space on the site, including a landscaping plan
 - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
 - (h) schematic building elevations and sections if required to describe the project
 - (i) grading plans
 - (j) proposed sewer and utility improvements
 - (k) location, sizes, and types of all proposed signage.
3. Specific proposed development regulations for the project, including:
- (a) the specific use types permitted within the proposed district
 - (b) maximum floor area ratios
 - (c) front, side, and rear yard setbacks
 - (d) maximum height
 - (e) maximum building and impervious coverage
 - (f) design standards applicable to the project.
4. A traffic impact analysis, if required by the City.

505 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each Mixed Use District application. The City may impose reasonable conditions, as deemed necessary to ensure that a Mixed Use Development shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to MU district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a MU Mixed Use District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An Ordinance adopting a Mixed Use District shall require a favorable simple majority of the City Council for approval.
- g. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the MU District. All approved plans shall be filed with the City Clerk.

506 Amendments

The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan provided that:

- a. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.
- b. The amendment is consistent with the provisions of this section.
- c. The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, mixture of use types, and physical design.
- d. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Council for action.

507-9 Reserved

PD PLANNED UNIT DEVELOPMENT DISTRICT

510 Purpose

The PD Planned Development Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. Planned developments often involve groupings of buildings or sites that are designed as an integrated unit on land under unified control or ownership at the time of grant of development permission. The requirements of a PD run with the land regardless of the subsequent sale or conveyance of property.

SPECIAL AND OVERLAY DISTRICTS

The PD District may be used in combination with any base district specified in this Ordinance. The PUD District, which is adopted by the City Council with the recommendation of the Planning Commission, assures specific development standards for each designated project.

511 Permitted Uses

Uses permitted in a PD Overlay District are those permitted in the underlying base district. A PD also may be combined with an MU Mixed Use District to allow a combination of use types not anticipated by conventional base districts.

512 Objectives of Planned Development Districts

In evaluating applications for PD Planned Development Overlay Districts, the Planning Commission and City Council shall consider the following general objectives.

a. Residential PD Districts

Residential PD Districts should be designed to produce more usable open space, provide better recreation opportunities, enhance pedestrian scale, protect or create neighborhood amenities and environmental features, and produce more attractive neighborhoods than those produced by conventional development techniques.

b. Commercial PD Districts

Commercial PD Districts should be designed to produce more attractive and functional clusters and commercial centers than the strip development that is frequently produced by the application of conventional zoning regulations. Techniques encouraged by PD Districts include consolidated access, shared parking, consistent architectural quality, improved pedestrian and trail access to commercial facilities, public space, and integrated landscaping and signage programs.

c. Industrial PD Districts

Industrial PD Districts should promote the establishment of industrial parks and to encourage groups of industrial buildings with integrated site design and architectural and landscaping themes.

d. PD Districts in Sensitive Contexts

PD Districts may be utilized to provide a high level of detail and define the requirements of project approval for developments proposed within settings that are so sensitive that normal zoning requirements, including landscaping and buffering requirements, do not provide sufficient protection for neighboring properties.

513 Site Development Regulations

Site Development Regulations are developed individually for each Planned Development District, but must comply with the minimum or maximum standards established for the base district, with the following exceptions:

- a. Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.
- b. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.

- c. Setback requirements may be varied according to the specific Planned Development plan.

514 Access to Public Streets

Each PD District must abut a public street for at least 100 feet and gain access from that street.

515 Application Process

a. Development Plan

The application for a Planned Development District shall include a Development Plan containing the following information:

b. Application Requirements

An application for approval must contain at a minimum the following information:

1. A detailed site map, including:
 - (a) a boundary survey
 - (b) site dimensions
 - (c) contour lines at no greater than two foot intervals
 - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
 - (e) description of adjacent land uses
 - (f) utility service to the site and easements through the site
 - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
2. A development plan, including:
 - (a) A land use plan designating specific uses for the site and establishing site development regulations, including setback, height, building coverage, impervious coverage, density, and floor area ratio requirements.
 - (b) a site layout, including the location of proposed buildings, parking, open space, and other facilities
 - (c) location, capacity, and conceptual design of parking facilities
 - (d) description of the use of individual buildings
 - (e) schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.
 - (f) a site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.

SPECIAL AND OVERLAY DISTRICTS

- (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
 - (h) schematic building elevations and sections if required to describe the project
 - (i) grading plans
 - (j) proposed sewer and utility improvements
 - (k) location, sizes, and types of all proposed signage.
3. A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages.

516 Adoption of District

- a. The Planning Commission and City Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to PD district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a PD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An Ordinance adopting a Planned Development Overlay Zoning District shall require a favorable simple majority of the City Council for approval.
- g. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the PD District. All approved plans shall be filed with the City Clerk.

517 Amendment Procedure

Major amendments to the Development Plan must be approved according to the same procedure set forth in Section 506.

518 Building Permits

The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PD District unless it is in compliance with the approved Development Plan or any approved amendments.

SPECIAL AND OVERLAY DISTRICTS

519 Termination of PUD District

If no substantial development has taken place in a Planned Development District for three years following approval of the District, the Planning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

NC HISTORIC NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT

520 Purpose

The NC Historic Neighborhood Conservation Overlay District enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas of special historical or architectural significance within the City of Fremont. The District recognizes the importance of historically and architecturally significant districts to the character of Fremont and provides for their conservation.

521 Application and Use

The NC Overlay District provides an opportunity to establish and apply special development controls and standards for areas in Fremont with special physical or design characteristics. Examples of these standards may include but not be limited to:

- a. Variations or substitutions of development regulations, including revised minimum and maximum setbacks, lot sizes, heights, and other regulations, based on the unique characteristics of the neighborhood.
- b. Requirements for building design, materials, features, and orientations.
- c. Special requirements or permissions for signage.
- d. Limitations on maximum size and scale of buildings.
- e. Limitations on location of parking, driveways, and other features that have an impact on the fabric of a traditional neighborhood.

522 Procedure for Adoption

- a. Proposal

The creation of an NC Overlay District may be initiated by the Planning Commission, the City Council, or by petition of the owner or owners of 51% of the property area within the proposed district.

- b. Requirements for Application

An application for the creation of an NC Overlay District must include:

1. A statement describing the proposed district's special historical or architectural characteristics and stating the reasons for proposal of the district
2. A map indicating the boundaries of the proposed NC Overlay District, specifying the base district(s) included within these boundaries.
3. An inventory of the buildings or historically important sites located within the boundaries of the proposed district.

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4. Supplemental site development regulations, design criteria, and performance standards that apply to the proposed district.

523 Adoption of District

- a. The Planning Commission, and City Council shall review and evaluate each NC Overlay District application.
- b. The Planning Commission, after proper notice, shall each hold public hearings and act upon each application.
- c. The Planning Commission may recommend amendments to NC district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing an NC Historic Overlay District.
- f. The Ordinance adopting the NC District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
- g. An Ordinance adopting an NC Overlay District shall require a favorable vote of a simple majority of the City Council for approval.
- h. Upon approval by the City Council, each NC Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.
- i. Any protest against an NC Overlay District shall be made and filed as provided by Nebraska state statutes, and amendments thereto.

524 Building Permits

Building or other development permits issued by the City in an NC District shall be consistent with the adopted NC District Ordinance and shall follow all procedures for review that are established by the City.

525- 529 Reserved

SC SPECIAL CORRIDOR OVERLAY DISTRICT

530 Purpose

The SC District recognizes the critical importance of certain major mixed use corridors to the overall urban fabric of the City of Fremont. Fremont's comprehensive development plan addresses the importance of these corridors, which may include all or part of Military Avenue, Bell Street, Broad Street, and Main Street. Each of these corridors has a viable combination of residential and non-residential uses that promotes interesting, pedestrian oriented settings. However, development pressures for additional non-residential use, while reasonable, can affect the special character of these corridors. The SC Overlay District provides a performance-based system, which, when applied to

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selected corridors, combines requirements and incentives to assure that subsequent development complements corridor enhancement efforts.

531 Application

The SC Overlay District may be applied to urban corridors by recommendation of the Planning commission and action of the City Council. SC Districts may be applied to those corridors identified in the city's comprehensive development plan.

532 Permitted Uses

Uses permitted in the SC Overlay District are those permitted in the base districts of properties within its boundaries.

533 Development Standards

Each use within the SC Overlay District shall comply with the development standards of its respective base district unless otherwise provided for by this section.

534 Project Evaluation

- a. All non-residential projects proposed for development in an SC Overlay District shall be required to achieve a minimum point score, based on the standards set forth below, prior to receiving approval for development or construction. Projects shall be evaluated by the Zoning Administrator, who shall maintain a written record of the evaluation. In order to receive approval, projects shall receive a minimum of 50 points.
- b. Administrative evaluations by the Zoning Administrator which result in the denial of a project approval may be appealed to the Board of Adjustment.

535 Evaluation Standards

a. Landscaped Areas

1. Base Standard: All projects must provide landscaping consistent with the minimum standards established in Article Eight.
2. Performance Points: Projects earn one point for each foot of landscaping provided in addition to the minimum required standards.

b. Parking Lot Landscaping

1. Base Standard: All parking lots accommodating 20 or more cars shall provide interior landscaping equal to 5% of the paved area of the parking lot.
2. Performance Points: Projects earn points based on the following table:

<u>Points</u>	<u>Action</u>
0	Project meets minimum standards
5	Project provides 1.25 times the base standard for interior landscaping.
10	Project provides 1.50 times the base standard for interior landscaping.
15	Project provides 2.00 times the base standard for interior landscaping.

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c. Access from Corridors

1. Base Standard: Access to corridors is permitted as provided by the City Engineer.
2. Performance Points: Projects earn ten points if access is provided only by the midblock alley or from an intersecting street or adjacent alley, rather than directly from the corridor's major street.

d. Signage

1. Base Standard: Projects must meet the sign requirement set forth in Article 10.
2. Performance Points: Projects earn points based on the following table:

<u>Points</u>	<u>Action</u>
0	Total sign area = 80% to 100% of permitted sign area.
5	Total sign area = 70% to 80% of permitted sign area.
10	Total sign area = 60% to 70% of permitted sign area.
15	Total sign area = 50% to 60% of permitted sign area.
20	Total sign area = Less than 50% of permitted sign area.

3. Projects which provide all signage as monument or ground signs earn an additional ten points. All such signs must be located outside of vision clearance zones.

e. Parking in Street Yard Facing Corridors

1. Base Standard: A maximum of 80% of the project's parking may be located in the corridor's street yard, defined as the area between the horizontal face of the building parallel or generally parallel to the corridor. Areas with UC zoning, with a more restrictive standard, may claim credit under this provision.
2. Performance Points: Projects earn points based on the following table:

<u>Points</u>	<u>Action</u>
0	Between 70% and 80% of the project's parking is in the corridor's street yard.
5	Between 60% and 70% of the project's parking is in the corridor's street yard.
10	Between 50% and 60% of the project's parking is in the corridor's street yard.
15	Between 40% and 50% of the project's parking is in the corridor's street yard.
20	Less than 40% of the project's parking is in the corridor's street yard.

f. Impervious Coverage

1. Base Standard: Impervious coverage shall not exceed 80% for any development.
2. Performance Points: Projects earn points based on the following table:

<u>Points</u>	<u>Action</u>
0	Impervious coverage = 75% to 80%
5	Impervious coverage = 70% to 75%
10	Impervious coverage = 60% to 70%
15	Impervious coverage = 50% to 60%

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20 Impervious coverage is less than 50%

g. Building Articulation

1. Base Standard: No requirement

2. Performance Points: Projects earn points based on the following table:

<u>Points</u>	<u>Action</u>
5	Building provides a minimum offset of 5 feet for every 100 feet of length of the facade parallel to the corridor's major street.
10	Building provides a minimum offset of 5 feet for every 75 feet of length of the facade parallel to corridor's major street.
15	Building provides a minimum offset of 5 feet for every 50 feet of length of the facade parallel to corridor's major street.

536 Development and Building Permits within the SC District

Developments may be approved in an SC Overlay District according to the following process:

- a. The applicant shall meet with the Zoning Administrator for the purpose of submitting a pre-application plan.
- b. The applicant shall apply for Project Evaluation on a form provided by the Zoning Administrator. The application shall include information required under the Site Plan approval process and other information necessary to permit complete evaluation of the project.
- c. The Zoning Administrator shall complete a written evaluation of the project based on the standards established in this section. The review shall determine the number of performance points awarded to the project. If the project earns the required number of points, the Zoning Administrator shall issue a Certificate of Approval for the project. All subsequent building and development permits shall be issued in conformance with the approved development plan.
- d. A denial of the project based on failure to earn the required number of points shall be transmitted to the applicant in writing. The applicant may either modify the project or appeal the decision of the Zoning Administrator to the Board of Adjustment.

TND TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT

540 Purpose

The TND Traditional Neighborhood Design District is intended to encourage innovative mixed use residential environments that reflect the planning and development patterns in place when Fremont was initially developed. The TND District produces environments which manage automobiles but maintain a scale and set of linkages that promote pedestrian travel and civic space. These theories of urban design have been classified as "New Urbanism" although they transport the patterns of development of traditional Fremont into new settings. The TND regulations included in this section are intended to capture the essence of this design technique, while avoiding excessive requirements that will discourage the use of the concept. The Fremont regulations are intended to capture the general concept and vision of traditional neighborhood design, without being so prescriptive as to inhibit the use of the concept or discourage design flexibility.

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541 Size

The minimum size of a TND District shall be 10 acres and the maximum size shall be 160 acres.

542 Application and Approval

- a. The application and adoption process shall be the same as those established by PD Planned Development Districts.
- b. All applications for a TND Subdivision must be accompanied by a TND Development Plan, in addition to other documents required by this Ordinance. This plan shall illustrate the distribution of land uses throughout the subdivision; the location and design of public spaces, streets, and alleys; the location and nature of special design features; architectural controls; and other information necessary to communicate the concept of the TND subdivision. The TND Subdivision Plan shall be a part of the approved subdivision. Subsequent building and development permits shall be issued by the City only in consistency with the TND Development Plan.
- c. Articles of incorporation and/or covenants for a homeowners' association or other provision assuring maintenance or operation of all common spaces shall be submitted with the TND application.

543 Permitted Land Uses

- a. Mixed Land Uses.
 1. Retail, service, civic, office, and various types of residential land uses may be combined within a TND development, notwithstanding the use regulations of the underlying zoning district. The distribution and location of land uses shall be consistent with the TND Plan submitted for the subdivision.
 2. The gross floor area of commercial area permitted within a TND shall not exceed 10,000 square feet per 100 people projected to live in the development. For the purpose of calculating projected population, the following factors shall be used:

Single-Family Detached:	3.5 people per unit
Single-Family Attached:	2.75 people per unit
Townhouses:	2.5 people per unit
Multi-family:	2.0 people per unit
 3. Parks and community open spaces shall make up at least 10% of the total area of the TND development. Community open spaces may include private common spaces used by the residents of a specific component of the project or incorporated into project design.

544 Density

- a. The average site area per unit of a TND shall be established by the underlying zoning district. However, the density of individual parts of the TND may exceed the average density.
- b. Overall density permitted by the underlying zoning district of the TND may be increased as follows for specific amenities: 10% for the provision of a centrally located town square of at least one acre for each 25 acres of developed area (excluding dedicated rights-of-way or other public lands); 10% for the provision of approved ornamental lighting throughout the TND Subdivision; and 10% for the development of a central community boulevard. Cumulative density bonuses shall not exceed 25% of the density permitted by the underlying zoning district.

545 Lot Dimensions and Setbacks

a. Lot Dimensions.

Individual lot size dimensions, including minimum width, may be reduced to 80% of the requirement of the underlying zoning district. Any savings on lot size shall be devoted to public space, including but not limited to town squares, small parks, greenways, and community facilities.

b. Lot Setbacks

1. Lot setbacks may be varied from those otherwise specified for the zoning district. Typically, the front-yard setback should respect a build-to line that is not less than 5 feet or greater than 20 feet. Different setbacks may be incorporated as part of the TND district approval. Setback limits must be established on the preliminary and final plat.
2. The distance across a street from building face to building face shall not exceed 100 feet except along a community street or boulevard.
3. The setback from any garage entrance to any circulation way, including an alley, must be at least 20 feet unless the project design makes other specific provisions for dedicated off-street parking. Garage access from the rear of lots by way of an alley is encouraged.

546 Street System Design

a. Street Continuity.

All streets within a TND District connect to other streets within the district, forming a continuous network. All streets and alleys shall terminate at other streets within the TND District and shall connect to other streets on the edge of the district.

b. Street and Block Characteristics

1. The design of the street system shall create an open network that creates blocks with a length of no more than 660 feet.
2. Street loops and cul-de-sacs may be included as part of the street system design. However, no street with a single point of access onto a connecting street should be longer than 200 feet.
3. Street or right-of-way widths may be varied within for local streets within TND Subdivisions.

c. Community Streets and Boulevards.

Community streets and boulevards are streets that are designed as central open space features within a TND development. Characteristics of such a street include:

1. Alignment that generally runs more than 50% of the longest dimension of the development.
2. Orientation to a main activity center in the development, including parks and neighborhood greens, civic facilities, commercial activity centers, or designed landmarks.
3. Extensive street landscaping and parallel sidewalks and trails.
4. Thematic lighting and street furniture.

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5. A street section which incorporates a median or wide sidewalk setbacks. A median's width should be equal to at least 1.00 times the width of either individual street channel. If the road channel is undivided, the distance between sidewalk and curb should be equal to at least 50% of the curb-to-curb width.

FP FLOODPLAIN/FLOODWAY OVERLAY DISTRICT

550 Purpose

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize losses to property by applying the provisions of this ordinance to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuitable for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

551 Findings Of Fact

a Flood Losses Resulting from Periodic Inundation

Flood hazard areas of the City of Fremont, Nebraska, are subject to inundation which results in loss of life or property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1. General Causes of These Flood Losses

These flood losses are caused by (a) the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (b) the occupancy of flood areas by uses vulnerable to floods or hazardous to other which are inadequately elevated or otherwise protected from flood damages.

2. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- (a) Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this ordinance is representative of

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large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one (1 %) percent chance of occurrence in any one year, as delineated by applicable Flood Insurance Studies and the Federal Emergency Management Administration's Flood Insurance Rate Maps and Flood Boundary and Floodway Map, or any subsequent effective Flood Insurance Studies, Rate Maps, and Flood Boundary and Floodway Maps issued after the effective date of this ordinance and adopted by Resolution of the City Council of the City of Fremont.

- (b) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- (c) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- (d) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
- (e) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

b. Land to Which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Fremont identified on the Flood Insurance Rate map (FIRM) as numbered and unnumbered A zone within identified special flood hazard areas of this community and/or within the Overlay Districts FF and FW established in this ordinance. In all areas covered by this ordinance, no development shall be permitted except upon a permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community as contained in the City Code.

c. Enforcement Officer

The Zoning Administrator of the City of Fremont is hereby designated as the City Council's duly designated Enforcement Officer under this ordinance. Unless otherwise provided by the City Council, the Lower Platte North Natural Resources District shall assist the City of Fremont on interpretation of floodplain/floodway rules and regulations. The Enforcement Officer shall obtain comments from the NRD as part of his/her review of all proposed activity in this Overlay District.

d. Rules for Interpretation of District Boundaries

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

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e. Compliance

Within identified special flood hazard areas of this community, no development located within known flood hazard areas of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

f. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

g. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City of Fremont and shall not be deemed a limitation or repeal of any other powers granted by state statute.

h. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Fremont or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

i. Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

j. Application for Appeal

Where a request for a permit to develop or a variance is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment. Procedures for appeals to the Board of Adjustment shall proceed as set forth by Article 1208 of this Ordinance.

552 Development Permits and Administration

a. Permit Required

No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this section.

b. Administration

1. The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
2. Duties of the Zoning Administrator shall include, but not be limited to:

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- (a) Review of all development permits to assure that sites are reasonable, safe from flooding and that the permit requirements of this ordinance have been satisfied.
- (b) Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local Governmental agencies from which prior approval is required.
- (c) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
- (d) Notify adjacent communities, the Nebraska Department of Natural Resources and the Lower Platte North Natural Resources District prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
- (e) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (f) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
- (g) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
- (h) When floodproofing is utilized for a particular structure, the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

c. Application for Permit

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit.
2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans for the proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the Zoning Administrator.

553 **Establishment of Zoning Districts**

The mapped flood plain area within the jurisdiction of this ordinance are hereby divided into the two following districts: A Floodway Overlay District (FW) and a Flood Fringe Overlay District (FF) as

identified in the official Flood Insurance Study and accompanying maps. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Emergency Management Administration (FEMA).

554 Standards for Floodplain Development

- a. No permit for development shall be granted for new construction, substantial improvement or other improvements including the placement of manufactured homes within all numbered and unnumbered A Zones (including AE, AO and AH Zones) unless the conditions of this section are satisfied.
- b. All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study Data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction. Further, in cases of proposed development within unnumbered "A" zones, the developer's engineer shall be required to conduct the necessary studies to determine the 100 year flood elevation and its extent in relation to such development.

That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1') foot on the average cross-section of the reach in which the development or landfill is located as shown in the official Flood Insurance Study incorporated by reference herein.

- c. New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other development shall require:
 1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.
 2. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 4. All utility and sanitary facilities be elevated or floodproofed one foot above the regulatory flood elevation. Such floodproofing is permitted only for non-residential properties.
 5. Storage of Materials and Equipment
 - (a) The storage of processing of materials that are in time of flooding buoyancy, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

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- (b) Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- 6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
 - (a) All such proposals are consistent with the need to minimize flood damage.
 - (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - (d) Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, include within such proposals the regulatory base flood elevation.

555 Flood Fringe Overlay District: Regulations

a. Permitted Uses

Any use permitted in the underlying base district and Floodway District shall be permitted in the Flood Fringe District. No use shall be permitted in the district unless the standards of Article 554 and this Article are met.

b. Standards for the Flood Fringe Overlay District

- 1. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement elevated one foot above the base flood elevation.
- 2. Any new construction or substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Enforcement Official. Such floodproofing is permitted only for non-residential properties.
- 3. All new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designated to automatically equalize hydro-static flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by the registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 4. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

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5. Manufactured Homes

- (a) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - (i) Over -the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
 - (ii) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.
 - (iii) All components of the anchoring system shall be capable of carrying a force of 4800 lbs.
 - (iv) Any additions to manufactured homes shall be similarly anchored.
- (b) All manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
 - (1) Outside of a manufactured home park or subdivision,
 - (2) In a new manufactured home park or subdivision,
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) In an exiting manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Article 555-b-5 (a).

- (c) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Article 555-b-5-(b) shall be elevated so that either:
 - (i) The lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Article 555-b-5-(a).

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6. Recreational Vehicles

All recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

c. AO Zones: Special Regulations

Located within the areas of special flood hazard established in this Ordinance are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified) or together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effect of buoyancy. Such certification shall be provided to the Enforcement Official.
2. All new construction and substantial improvements of nonresidential structures shall:
 - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (b) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the Enforcement Official.
3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

d. Floodproof Construction

Notwithstanding any other provisions, the provisions of the ordinance permitting construction of floodproofed residential basements in Zones A1-30, AH, AO and AE, shall become operative only after approval of an exception analysis of floodproof construction standards as outlined in Section 60.6 (c) of the National Flood Insurance Program Regulations, 44CFR Chapter 1 and declaration by the Mayor of the City of Fremont.

556 Floodway Overlay Districts

a. Permitted Uses

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. The following are recommended uses for the Floodway District:

1. Agricultural uses such as general farming, pasture, nurseries, forestry.
2. Accessory residential uses such as lawns, gardens, parking and play areas.
3. Nonresidential areas such as loading areas, parking, and airport landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes is prohibited with the identified floodway (FW) area.

b. Standards for the Floodway Overlay District

New structures are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Article 554 and 555. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State of other sources or Section 554-c-6(d) of this ordinance, in meeting the standards of this section.

557 Request For Variances From District Requirements

- a. The Board of Adjustment, as established by the City of Fremont, shall hear and decide appeal and requests for variances from the requirements of this ordinance.
- b. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- c. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided by Nebraska State Statutes.
- d. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger of life and property due to flooding or erosion damage.
 3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 4. The importance of the services provided by the proposed facility to the community.

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5. The necessity to the facility of a waterfront location, where applicable.
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.
 9. The safety of access to the property in time of flood for ordinance and emergency vehicles.
 10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site.
 11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- e. Conditions for Variance
1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing terms 2. through 6. below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
 2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 5. In addition to the criteria for variances set forth in Article 1209 of this Ordinance, variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 6. Any applicant to whom a variance is granted shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

558 Zoning Regulations For Nonconforming Uses

a. Continuance of Nonconforming Uses

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

1. No such use or substantial improvement of that use shall be expended, changed, enlarged, or altered in a way which increases its nonconformity.
2. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Building Inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
3. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.

b. Replacement of Residential Uses

If any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

c. Replacement of Non-Residential Uses

If any non-residential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

559 Amendments

The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Fremont, Nebraska. At least ten (10) days shall elapse between the date of this publication and the public hearings. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plan Management Act.

560 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

Actuarial Rates. Or "risk premium rates" are those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

Appeal. A request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding. A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. The land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

Base Flood. Means the flood having one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation. Elevation indicated in the official flood plain study as the elevation of the 100-year flood.

Base Flood Protection Elevation. An elevation one foot higher than the water surface elevation of the base flood.

Basement. Means any area of the building having its floor subgrade (below ground level) on all sides.

Channel. A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.

Community. Any state or area or political subdivision thereof which has authority to adopt and enforce flood plain management regulations for the area within its jurisdiction.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing Construction (For the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing Construction" may also be referred to as "existing structures".

Existing Manufactured Home Park or Subdivision. Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

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Expansion to an Existing Manufactured Home Park or Subdivision. Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Fringe (FF). Is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent change of flood occurrence in any one year). Also referred to as Floodway Fringe.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

Flood Insurance Study. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

Flood Plain Management. The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to, emergency preparedness plan, flood control works, and flood plain management regulations.

Flood Protection System. Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.

Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.

Floodplain. Any land area susceptible to being inundated by waters from any source (see definition of "flooding").

Floodway (FW) or Regulatory Floodway. The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the heights calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified

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or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction. Structures for which the "start of construction or substantial improvement" is commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.

New Manufactured Home Park or Subdivision. Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

100-Year Flood. The base flood having a one percent chance of annual occurrence.

Overlay District. A district which additional requirements acts in conjunction with the underlying zoning district or districts. The original zoning district designation does not change.

Principally Above Ground. At least 51 percent of the actual cash value of the structure is above ground.

Recreational Vehicle. A vehicle which is (i) build on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Special Flood Hazard Area. The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

Start of Construction. [For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. Law 97-348)]. Includes substantial improvement, and means the date the building permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start or other

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improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Structure. A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

Substantial Damage. Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance. A grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation. Means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

WP - WELLHEAD PROTECTION AREA DISTRICT

570 Purpose

To assist operators of public water supply systems in providing protection for wells through regulation of land uses which have the potential for contamination of the groundwater sources serving the wells.

571 Application of District

This district shall be applied to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality for a twenty- (20) year time of travel recharge zone.

This Ordinance shall apply to all lands within the jurisdiction of the City of Fremont identified on the Wellhead Protection Area Map entitled: "Fremont (South Wellfield), Dodge County, Nebraska, drawn by the Nebraska Department of Environmental Quality, Wellhead Protection Program Map, dated September 2009, Exhibit A".

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The public water supply operator shall place signs designating the boundaries of the Wellhead Protection Area where public roads cross the boundary.

572 Enforcement Officer

The Zoning Administrator of the City of Fremont is hereby designated as the City's duly designated Enforcement Officer under this Ordinance.

573 Interpretation of Boundaries

In the event the boundaries of any officially approved Wellhead Protection Areas do not follow easily identifiable boundaries such as roads, rivers, section lines, quarter section lines, or quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such line.

574 Wellhead Protection Area Regulations

a.) Permitted Uses

- 1.) Uses permitted in a WP District shall be those permitted in the AG Zoning District as permitted uses except for Emergency Residential, Day Care (limited), and Religious Assembly.
- 2.) Storage of agricultural chemicals and/or petroleum products for personal use only. (1,000 gallon limit).
- 3.) Animal production or occupancy limited to one animal unit per four acres.

b.) Conditional Uses

- 1.) Resource extraction
- 2.) Communications tower
- 3.) WECS
- 4.) Campground
- 5.) Storage of agricultural chemicals and/or petroleum products for personal use only in excess of 1,000 gallon limit.
- 6.) Clubs (Recreational)

575 Definitions

Wellhead Protection Area

The surface and subsurface area surrounding a water well or wellfield supplying a public water system through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

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Animal Unit

Animal unit shall mean a unit of measurement for any livestock operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of cow/calf pairs multiplied by 1.2, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing 55 pounds or more multiplied by 0.4, plus the number of weaned pigs weighing less than 55 pounds multiplied by 0.04, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0, plus the number of chickens multiplied by 0.01, plus the number of turkeys multiplied by 0.02, plus the number of ducks multiplied by 0.2. For immature dairy cattle or species not listed, the number of animal units shall be calculated as the average weight of the animals, divided by 1,000 pounds, multiplied by the number of animals.

6

ARTICLE SIX

SUPPLEMENTAL USE REGULATIONS

601 Purpose

The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Ordinance. The regulations contained in this Article pertain both to uses allowed by right within various zoning districts; and to uses that require approval as Conditional Uses by the Planning Commission. Nothing contained in this section shall limit the right of the Planning Commission or City Council on appeal to impose additional conditions on developments seeking Conditional Use Permit approval.

602 Supplemental Use Regulations: Agricultural Uses

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

a. Horticulture and Crop Production: Retail Sales

Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the AG District outside of the city limits of Fremont, subject to the following requirements:

1. Garden Centers

- (a) A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants. The garden center shall not be a permanent installation and shall be fully removable when not in use.
- (b) Garden centers must conform to all site development regulations for the zoning district.
- (c) Any garden center adjacent to a residential district must maintain a 20-foot landscaped bufferyard, consistent with the standards established in Section 804.

2. Roadside Stands

- (a) A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
- (b) A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
- (c) A roadside stand may operate for a maximum of 180 days in any one year.

SUPPLEMENTAL USE REGULATIONS

b. Animal Production

1. No commercial poultry or livestock operation shall be located within 1,000 feet of any residential or commercial zoning district.
2. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the AG and RR Districts, provided that any building housing such animals shall be at least 300 feet from any other residential zoning district, 100 feet from any property line and 25 feet from any dwelling unit on the site. Any site accommodating these uses shall be no less than 2.5 acres. No animals with measurable odors shall be raised for commercial purposes within the city limits.
3. Within the AG or RR Districts, any lot of 2 acres and over may maintain one horse, llama, or other equine and/or hooved animal and its immature offspring. Such a lot may have one additional animal for each additional two acres of lot area, up to a maximum total of three animals. No stable shall be located closer than 300 feet from any other residential zoning district, 100 feet from any property line and 50 feet from any dwelling unit on the site

c. Commercial Feedlots

Commercial Feedlots are not permitted within the jurisdiction of the City of Fremont.

603 Supplemental Use Regulations: Residential Uses

a. Zero-Lot Line Single-Family Detached Residential

Within a common development, one interior side yard may be equal to zero for single-family detached residential use, subject to the following additional regulations:

1. The side yard opposite to the zero yard must equal at least twice the normal required minimum side yard and must taken by itself comply with all side yard requirements for the zoning district.
2. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.
3. An easement for maintenance of the zero lot line facade is filed with the Dodge County Register of Deeds and the City Clerk at the time of application for a building permit.

b. Single-Family Attached

1. When permitted with requirement for conditional use approval, the minimum side yard opposite the common wall shall be equal to at least twice the normal required side yard. A reduced setback may be permitted as part of a Planned Development District approved by the Planning Commission and City Council.

c. Townhouse Residential

Where permitted, townhouse residential is subject to the following regulations:

1. The minimum width for any townhouse lot sold individually shall be 25 feet, except within an approved creative subdivision.

2. Coverage percentages are computed for the site of the entire townhouse common development.

d. Multi-Family Development

1. No more than 12 units are permitted at any one development within an R-3 District.
2. A multi-family development within an R-3 District may be no closer than 300 feet to any other pre-existing multi-family development, as measured from the property lines nearest each other.
3. Car wash facilities for use by tenants only may be considered as an accessory use in R4 - Multi-Family Developments with more than 12 units on a conditional use basis or as part of a Planned Unit Development.

e. Downtown Residential Use in the DC, GC and LI Districts

Downtown Residential use when permitted in the DC, GC and LI Districts are subject to the following conditions:

1. Locations shall be limited to the Main Street Fremont Plan Area as set forth in the City's 1999 Comprehensive Development Plan and shall be approved by the Planning Commission and City Council.
2. Downtown Residential uses are allowed in the DC, GC and LI Districts only on levels above street level except that a unit specifically designed for occupancy by disabled residents or a unit not fronting a street and not exceeding 50% of the street level floor area and not being the primary use of the street level floor area, may be developed at street level, subject to approval by the Planning Commission and City Council.
3. Residents of units must be informed by the owner of the building that lawful commercial uses have priority over residential uses.
4. All upper level apartments must have two separate means of egress.

f. Group Residential

Where permitted, Group Residential use must comply with the following requirements:

1. Within the AG and RR districts, no more than six persons in addition to the family of the owner shall be permitted to reside in an owner-occupied dwelling unit. No more than five persons shall be permitted to reside in a non owner-occupied dwelling unit.
2. Within the R-3 and R-4 districts, no more than ten persons in addition to the family of the owner shall be permitted to reside in an owner-occupied dwelling unit. No more than seven persons shall be permitted to reside in a non owner-occupied dwelling unit.
3. A minimum of 250 square feet must be provided in the dwelling unit for each resident.

g. Mobile Home Parks

In the R-5 Mobile Home Residential District, which permits mobile home residential use, such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective

date of this Ordinance, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to approval as a Conditional Use by the Planning Commission and compliance with the following regulations:

1. Certification

A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be issued by the Zoning Administrator prior to the occupancy of any new Mobile Home Park or any expansion of an existing Mobile Home Park.

2. Minimum and Maximum Area

A Mobile Home Park shall be considered to be one zoned lot. The contiguous area of a Mobile Home Park shall have a minimum of 3.0 acres and a maximum of 15 acres.

3. Density Requirements

- (a) The minimum gross site area per dwelling unit shall be 5,000 square feet.
- (b) The minimum size of an individual mobile home space shall be 4,000 square feet for single-wide mobile home units and 6,000 square feet for double-wide mobile home units.
- (c) Each mobile home space shall have a width of at least 50 feet wide and a length of at least 80 feet.

4. Site Development Standards

- (a) Setbacks: Each Mobile Home Park shall have a minimum perimeter setback of 30 feet from adjacent non-residential uses and 50 feet from adjacent residential uses. No space for a dwelling unit or any other structure shall be permitted in the required setback.
- (b) Setback landscaping: All area contained within the required setbacks except sidewalks and private drives shall be landscaped and screened in conformance with Section 8 of this Ordinance. Screening shall be provided in conformance with Article 8 for any common property line with another non-residential use.
- (c) Impervious Coverage: Impervious coverage for a Mobile Home Park shall not exceed 50 percent of the total site area.
- (d) Open Space: Each Mobile Home Park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.
- (e) Separation Between Mobile Home Units: The minimum separation between a mobile home unit and attached accessory structure and any other mobile home units and/or accessory structure shall be 15 feet.
- (f) Separation and Setbacks for Accessory Buildings: An accessory building on a mobile home space maintains a minimum rear and side yard setback of five feet. A

minimum distance of ten feet shall be provided between any mobile home and an unattached accessory building.

5. Street Access and Circulation Requirements
 - (a) Access to Public Street: Each Mobile Home Park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.
 - (b) Vehicular Circulation: The Mobile Home Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width shall be 27 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 90 feet. No such cul-de-sacs may exceed 300 feet in length.
 - (c) Separation between Units and Circulation Areas: The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be ten feet.
 - (d) Sidewalks: Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least four feet.
 - (e) Street and Sidewalk Standards: All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.
 - (f) Parking Requirements: Each Mobile Home Park must provide at least two off-street parking stalls for each mobile home space.
6. Tornado Shelters: Tornado shelters shall be provided in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Civil Defense authority and be large enough to meet the specific needs of the park and its residents.
7. Utilities
 - (a) All Mobile Home Parks shall provide individual units and common facilities with an adequate, piped supply of water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.
 - (b) Complete sanitary and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.
 - (c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance and other applicable city codes and public improvement design standards.
 - (d) All electric, telephone, gas, and other utility lines shall be installed underground.

8. Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.
9. Completion Schedule: Construction must begin on any approved Mobile Home Park within one year of the date of approval by the Planning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.
10. All other uses and provisions of the Fremont Mobile Home Park regulations are incorporated herein by reference. These provisions include tie-down and other structural requirements included in the Fremont Municipal Codes.

h. Mobile Home Subdivisions

1. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Ordinance of Fremont. Site development regulations shall be the same as those required in the R-2 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.
2. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance.
3. Mobile Home Subdivisions shall provide tornado shelter facilities as required by Section 603 f (5).
4. The minimum size of a mobile home subdivision shall be ten (10) acres.

i. Earth-Sheltered Residences

No subterranean or basement structure shall be occupied for residential purposes, except for those that meet the following requirements as earth-sheltered residences:

1. The living area shall be provided with exterior windows and/or skylights with a total glassed area of at least 10% of the gross floor area of the residence. Such windows or skylights shall give direct access to natural light and open space.
2. All earth sheltered residences shall conform to the development regulations for their respective zoning districts.
3. An outdoor space shall be provided immediately outside one wall of the residence that has:
 - (a) A minimum size of 500 square feet.
 - (b) A minimum width of 20 feet.
 - (c) An average grade elevation no more than 2 feet above or below the finished floor elevation of the residence.
4. All earth-sheltered residences shall have structural systems designed by a professional structural engineer and shall have plans signed and approved by such engineer.

j. Residential Cluster

1. A complete layout of a residential cluster project showing the entire tract, location all easements, structures, easements and other provisions for permanent access to all units shall be submitted with the application.
2. The layout for a Residential Cluster project shall be prepared or certified by a Registered Land Surveyor and shall be submitted to a scale of at least 1 inch equals 100 feet.

604 Supplemental Use Regulations: Civic Uses

a. Community Centers and Clubs

Clubs located adjacent to residential uses shall maintain a bufferyard of not less than 40 feet along the common boundary with such residential use.

b. Day Care

1. Limited Day Care uses are permitted on residential lots and may be operated by the occupant of a dwelling unit on the site.
2. Day care facilities are permitted by Conditional Use Permit in the GI General Industrial Zoning District only if incidental to a permitted primary use.
3. Day care centers accommodating more than four children or adults shall:
 - (a) Not be located along a major arterial street as designated in the city's Comprehensive Development Plan.
 - (b) Provide at least 100 square feet of open space per child, entirely enclosed by a building, fence, or wall with a height of at least six feet.
 - (c) Conform to all requirements and licensures of the State of Nebraska.

c. Group Care Facilities and Group Homes

1. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental subdivision.
2. Group homes are permitted in the DC District only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Council with the recommendation of the Planning Commission.

d. Primary Educational Facilities

1. A use established as a Primary Educational Facility on the effective date of this Ordinance shall continue to be classified in this use even if it subsequently offers a curriculum or accommodates students at the junior high or high school level. In the event of such reuse, the Primary Educational Facility shall meet the parking requirements for Secondary Educational Facilities set forth in Table 9-1.

605 Supplemental Use Regulations: Commercial Uses

(a) Auto Repair, Equipment Repair, and Body Repair

1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways. Screening is subject to provisions of Article 8 of this ordinance.
2. Any spray painting must take place within structures designed for that purpose and approved by the Building Official.

(b) Auto Washing Facilities

1. Each conveyor operated auto washing facility shall provide 100 feet of stacking capacity per washing lane on the approach side of the washing structure and stacking space for two vehicles on the exit side.
2. Each self-service auto washing facility shall provide stacking space for three automobiles per bay on the approach side and one space per bay on the exit side of the building.

(c) Automobile and Equipment Rental and Sales

1. All outdoor display areas for rental and sales facilities shall be hard-surfaced.
2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

(d) Bed and Breakfasts

Bed and Breakfasts permitted in the DC District and established in buildings not used or designed principally as residential structures must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.

(e) Campgrounds

1. Minimum Size: Each campground established after the effective date of this Ordinance shall have a minimum size of one acre.
2. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.
3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

(f) Convenience Storage

When permitted in the AG, CC, GC, and LI Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be one acre.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
3. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
4. No storage buildings may open into required front yards.
5. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
6. Facilities must maintain landscaped bufferyards of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by Article Eight.

(g) Kennels

1. The minimum lot size shall be two acres.
2. No building or dog runs shall be located nearer than 100 feet from any property line and 300 feet to the property line of any residential use or district.
3. All kennel facilities shall be screened around such facilities or at property lines to prevent distracting or exciting animals. Screening shall be of a type provided by Article 8, establishing landscape and screening standards.

(h) Liquor Consumption

1. Any business located on a parcel within 300 feet of an Agricultural or Residential zoning district which has a State of Nebraska license permitting the on-premise consumption of alcoholic beverages shall obtain a Special Permit from the City Council prior to being able to sell such alcoholic beverages. This Permit shall be renewed annually by resolution of the City Council. The City Council may require the business to submit to a formal public hearing before the Council to consider renewal or denial of the Special Permit.
2. The Special Permit may be suspended or revoked by the City Council at any time for cause, following a public hearing. Written and/or verbal complaints at such public hearing shall be accepted from property owners with properties located within 300 feet of the property accommodating the Special Permit. Existing businesses within 300 feet of an Agricultural or Residential zoning district and having a State of Nebraska license permitting the on-premise consumption of alcoholic beverages shall be deemed to have a valid Special permit until the time of their next scheduled renewal by the City Council.

(i) Restricted Businesses

Adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:

1. No adult entertainment business shall be open for business between the hours of one a.m. and six a.m.

2. A new adult entertainment business shall not be allowed within 1,000 feet of another existing adult entertainment business.
3. A new adult entertainment business shall not be located within 1,000 feet of any residentially zoned district or a preexisting school, public park, or place of worship.
4. The provisions of this chapter, excepting the distance requirements set forth in Section 605i2 and 605i3 above, shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformances shall come into compliance on or before January 1, 2005, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale or transfer of ownership of the adult entertainment business.
5. Measurement of distances. For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.
6. No adult entertainment business shall employ any person under 21 years of age.
7. No adult entertainment business shall furnish any merchandise or services to any person who is under eighteen years of age.
8. No adult entertainment business shall be conducted in any manner that permits the observation of models or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which is prohibited by this code or any laws of the state or the United States.
9. No part of the interior of the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, street, or other public or semipublic area.
10. An adult entertainment business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen years is allowed on the premises. The sign shall comply with the city's sign regulations. This section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
11. Nuisance Operation: Any adult entertainment business operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal or injunction thereof, in the manner prescribed by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this chapter.

(j) Stables

1. Stables, riding academies, and similar facilities shall have a minimum site area of 2.5 acres.
2. Any stables or other buildings in which animals are kept shall be at least 100 feet from any property line and 300 feet from any residential district.

606 Supplemental Design Standards for Office and Commercial Uses in the LC Districts

a. Design Standards for the LC Limited Commercial District

The following design standards shall apply to any office or commercial use developed within the LC District:

1. No single buildings have a building coverage area that exceeds 10,000 square feet.
2. No street-facing facade may have a continuous length of 50 feet or over without an offset in the building elevation equal to a dimension of at least five feet.
3. Window area on each facade shall be equal to at least 20% of the area of that facade.
4. Exterior materials shall be brick, stone, wood clapboard, or other exterior materials typical of exterior building materials in common use in Fremont's residential districts or town center business district.
5. The dominant roof form shall be a pitched or gabled roof with a minimum roof slope equal to one foot of vertical height to every three feet of horizontal distance. Permitted roof materials may include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials.
6. Surface parking may be adjacent to no more than 50% of the property line of the site's principal street frontage.
7. Each site design shall provide a clear and safe method of pedestrian circulation along the street right-of-way and between the street right-of-way and a principal customer entrance of the business.

607 Supplemental Use Regulations: Industrial Uses

a. Resource Extraction

Resource extraction, where permitted, is subject to the following additional requirements:

1. Erosion Control: A resource extraction use may not increase the amount of storm run-off onto adjacent properties. Erosion control facilities, including retention and sediment basins, are required of each facility, if necessary, to meet this standard.
2. Surface Drainage: The surface of the use may not result in the collection or ponding of water, unless specifically permitted by the City Council.
3. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.

4. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:
 - (a) Restoration of slopes to a gradient not exceeding 33% as soon as possible.
 - (b) Installation of perimeter safety screening.
 - (c) Installation of visual screening adjacent to any property within a residential or public use district.
 5. Restoration of Landscape: The topography and soil of the resource extraction site shall be restored and stabilized within nine months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternately, the site may be used as a lake or body of water, subject to approval by the City Council with the recommendation of the Planning Commission and the Lower Platte North Natural Resources District.
- b. Salvage Services
1. Screening:
 - (a) The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight feet. Any such enclosure shall be constructed behind required landscaped bufferyards.
 - (b) All enclosures shall be of uniform height, texture, and color, and shall be maintained by the proprietor to ensure maximum public safety and to completely obscure the public view of materials stored in the facility.
 2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
 3. No loading, unloading, or any other operational activity involving salvage materials may take place outside the boundaries of the enclosure. Burning of any materials shall be prohibited.
 4. No Salvage Services use may be established within 1,000 feet of the nearest property line of a residential zoning district or any civic use.

608 Performance Standards for Industrial Uses

a. Industrial Uses in the LI District: Performance Standards

The following performance standards apply to all industrial uses permitted within an LI Limited Industrial zoning district:

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.

2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of Dodge County and the City of Fremont.
3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the LI district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
4. Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
5. Air Contaminants: No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.
6. Odor: The emission of odors determined by the Planning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
7. Gases: No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed 5 parts per million taken at the property line of the operation.
8. Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
9. Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.
10. Storage of Chemical Products: If allowed by Conditional Use Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial zoning district.

608b Accessory Commercial Uses (Warehousing (Enclosed) and Off-Street Parking)

If allowed by Conditional Use Permit in an Agriculture/Urban Reserve District, enclosed warehousing or off-street parking must be an accessory use to and abutting a principal General Commercial use in a General Commercial zone district. The Site Development Regulations according to Table 4-3 for General Commercial properties shall apply to the accessory commercial use. No direct on-premise retail sale to the general public is allowed.

SUPPLEMENTAL USE REGULATIONS

609 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts

Table 6-1 displays the maximum permitted sound levels that may be generated by uses in the CC, GC, BP, or LI zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

Table 6-1: Maximum Permitted Sound Levels at Residential Boundaries

<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq*</u> <u>(dbA)</u>
CC, GC, LI	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55
GI	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m.	55

* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

610 Supplemental Use Regulations: Miscellaneous Uses

a. Communications Towers

Communications towers, where permitted, are subject to the following additional requirements:

1. Co-Location: It is the policy of the City of Fremont to encourage the co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers or suitable buildings has been explored and exhausted. Applicants may not be denied space on an existing tower within the City of Fremont unless mechanical, structural, or regulatory factors prevent co-location.

The City encourages co-location of wireless telecommunication facilities to minimize the number of telecommunication sites.

- a. No wireless telecommunication facility owner or operator shall unfairly exclude a telecommunication competitor from using the same facility or location. Upon request by the City, the owner or operator shall provide evidence why co-location is not possible.
- b. If a telecommunication competitor attempts to co-locate a facility on an existing or approved telecommunication facility or location, and the parties cannot reach agreement, the City may require a third party technical study at the expense of either or both parties to determine the feasibility of co-location.

All applications for a tower shall include a statement to demonstrate the need for the new tower and provide supporting documentation as to why co-location is not possible on an existing structure in the area and a letter of intent to allow co-location on the proposed antenna support structure.

2. All applications for approval of a CMRS (Commercial Mobile Radio Service) facility, meaning any use of property for towers, antennas, equipment and equipment shelter(s) or cabinets employed in reception, switching and/or transmission of wireless telecommunications services,

including but not limited to, paging, enhanced specialized mobile radio, personal communications services, microwave link antenna, cellular telephone and other related technologies by a public or private company providing any type of CMRS wireless service under an FCC license shall include the following:

- (a) A site plan showing the location and legal description of the site; on-site land uses and zoning; adjacent roadways; parking and access; areas of vegetation and landscaping to be added; setbacks from property lines; and, the location of the facility, including all related improvements and equipment.
- (b) A vicinity map showing adjacent properties, land uses, zoning and roadways within one mile of a proposed CMRS site.
- (c) Elevation drawings of the proposed facility showing all antennas, towers, tower heights, structures, existing buildings, walls and/or roofs on which antennas are mounted, equipment buildings/cabinets, fencing, screening, lighting and other improvements related to the facility showing specific materials, placement and colors.
- (d) A narrative report describing the facility and the technical, economic and other reasons for its design and location, the need for the facility and its role in the network, and describing the capacity of the structure, including the number and type of antennas it can accommodate.
- (e) A coverage map and a survey of existing towers including type and location and a statement to demonstrate the need for the new tower and provide supporting documentation as to why co-location is not possible on an existing tower in the area.
- (f) A letter of intent to allow co-location on the antenna support structure. Facility owners shall not unreasonably exclude competitors from using the same facility or location.
- (g) A letter of intent to remove the facility at the expense of the facility and/or property owner if it is abandoned.

3. Towers shall be located at the following setbacks:

- (a) All towers up to fifty (50) feet in height shall be set back on the sides a distance equal to the underlying setback requirements in the applicable zoning district. Towers in excess of fifty (50) feet in height shall be set back a distance equal to the manufacturers designed fall distance rate. The height of the tower shall be measured from the floor of the base pad to the top of the tower. Setback requirements shall be measured from the base of the tower to the nearest boundary line of the tract of land on which it is located.
- (b) Towers of one hundred fifty (150) feet or less in height located in or adjacent to any residential district or LC, CC, DC or GC commercial district shall be separated from any residential structure, school, church and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
- (c) Towers exceeding one hundred fifty (150) feet in height may not be located in any R1 through R5 residential district or LC, CC, DC or GC commercial district, and must be separated from said district by a minimum of the height of the proposed tower. Towers with heights greater than one hundred fifty (150) feet shall only be located in an industrial or agriculturally zoned district.

4. Towers must meet the following minimum separation requirements from other towers:

- (a) Monopole tower structures shall be separated from all other towers whether monopole, self-supporting lattice or guyed towers by a minimum of seven hundred fifty (750) feet.
- (b) Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred (1,500) feet.

5. The tower facility shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Fremont. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood. Metal exteriors shall not be permitted for support accessory buildings.
6. All tower facilities shall provide landscaped peripheral yards with a minimum depth of 35 feet. One tree consistent with the provisions of Article 8 shall be planted for every 500 square feet of required peripheral yard area.
7. Abandonment: All applications shall include a letter of intent to remove the facility at the expense of the facility or property owner if it is abandoned. Communication towers and facilities will be considered abandoned if they are unused by all providers at the facility for a period of 12 months. Determination of abandonment shall be made by the Zoning Administrator and/or his/her designees, who shall have the right to request documentation from the facility owner and/or communication provider regarding tower or antenna usage. Upon abandonment, the facility owner or property owner shall have 120 days to:
 - (a) Reuse the facility or transfer it to another communication provider who will reuse it; or, dismantle the facility. If the facility is not removed within 120 days of abandonment, the City may remove the facility at the facility's and/or the property owner's expense. If the facility is removed, City approval of the facility will expire. If the City cannot recover expenses directly from the facility and/or the property owner, the City will file a lien against the property to recover the removal expenses.
 - (b) One extension, at no charge, of no more than six months in duration of the abandonment grace period may be granted upon written request of the communication provider. Such requests must be received one month in advance of expiration of the abandonment grace period.
8. The following are exempt from the preceding Section 610-a requirements:
 - (a) Existing towers and antennas and any repair or maintenance of the same.
 - (b) Ham radio towers, citizen band transmitters and antennas.
 - (c) Microwave dishes for home or business use of less than one meter in diameter.
 - (d) Towers for public safety and emergency communications.
9. By adopting Section 610-a "Communication Towers" the City is not attempting to regulate radio frequency power densities or electromagnetic fields, which regulation is controlled by the FCC.

b. Landfills

1. Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.
2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.
3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Fremont. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.

4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State or Federal Highway.
 5. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska's Department of Environmental Quality.
 6. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Fremont and its extra-territorial jurisdiction.
- c. Wind Energy Conservation Systems (WECS)
1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a Conditional Use Permit approval if the Planning Commission finds that the reduction is consistent with public health, safety, and welfare.
 2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a Conditional Use Permit approval if the Planning Commission finds that the reduction does not impede the operation of either WECS.
 3. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.
 4. A fence six feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.
 5. The WECS is exempt from the height restrictions of the base district.

611 Supplemental Use Regulations: Accessory Uses

a. Home-Based Businesses

Home-based businesses are permitted with a conditional use permit provided it is demonstrated that:

1. External Effects:
 - (a) No alterations will be made to the building that changes the residential character or appearance of the dwelling to accommodate the home-based business other than signage permitted within this section.
 - (b) The home-based business will not create any noise, odors, bright lights, electronic interference, storage or other external effects that constitute a public or private nuisance to neighboring properties or public right of way.

- (c) The home-based business shall be carried on entirely within the living quarters of the principal residential structure or within an accessory building in accordance with these zoning regulations. All "External Effects" criteria in items a. 1. (a), (b), (d), (e), (f), (g) and (h) of this subsection are applicable for the detached accessory building.
 - (d) Mechanical or electrical equipment supporting the home-based business shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.
 - (e) There will be no outdoor display or storage of goods, materials, merchandise or equipment related to the home-based business that is visible from the exterior of the dwelling unit, other than motor vehicles used by the owner to conduct the business.
 - (f) Parking or storage of heavy commercial vehicles, Class 4 and above (gross vehicle weight rating greater than 14,000 pounds) to conduct the home-based business is prohibited, unless allowed by the underlying zoning district. This excludes commercially utilized vehicles less than 14,000 pounds.
 - (g) No home-based business shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
 - (h) The home-based business will not be more dangerous to life, personal safety or property than any other activity ordinarily carried on with respect to a dwelling unit used solely for residential purposes.
- 2. Employees: The home-based business shall employ no more than two full time or part time employees on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by each non-resident employee.
 - 3. Extent of Use: The home-based business shall not occupy more than 50 percent of the dwelling's gross floor area, which shall exclude the floor area of an attached or detached garage or an accessory dwelling unit.
 - 4. Signage: Each home-based business will be limited to a single, non-animated, non-illuminated, nonreflecting nameplate not more than two square feet in area, which nameplate designates the name of the home-based business carried on within, in letters not to exceed two inches in height and attached to the building wherein the home-based business is conducted.
 - 5. Traffic Generation and Parking
 - (a) The home-based business will be conducted so that it does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes as places of residence.
 - (b) The home-based business will not require the delivery of shipment of materials, merchandise, goods, or equipment by vehicles other than passenger motor vehicles, one ton step-up vans or similar-sized trucks that are less than seven tons gross vehicle weight.
 - (c) Parking needs generated by a home-based business shall be satisfied with off-street parking. No more than two on-street parking spaces shall be used by the home-based business at any one time.

SUPPLEMENTAL USE REGULATIONS

6. Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:
 - (a) Animal hospitals.
 - (b) General retail sales.
 - (c) Mortuaries.
 - (d) Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses.
 - (e) Stables or kennels.
 - (f) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.
 - (g) Tattoo parlors.
7. The home-based business will be operated in accordance with all applicable laws. If a state permit is required, such permit shall be obtained prior to beginning operation.

b. Home Occupations

Home occupations are permitted as an accessory use in residential units and accessory buildings provided that it is demonstrated that:

1. External Effects:
 - (a) No alterations will be made to the building that changes the residential character of the dwelling to accommodate the home occupation other than signage permitted within this section.
 - (b) The home occupation will not create any noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.
 - (c) The home occupation shall be carried on entirely within the living quarters of the principal residential structure or within an accessory building in accordance with these zoning regulations. All "External Effects" criteria in items a. 1. (a), (b), (d), (e), (f), (g) and (h) of this subsection are applicable for the detached accessory building.
 - (d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.
 - (e) There will be no outdoor display or storage of goods, materials, merchandise or equipment related to the home occupation that is visible from the exterior of the dwelling unit other than motor vehicles used by the owner to conduct the occupation.
 - (f) Parking or storage of heavy commercial vehicles, Class 4 and above (gross vehicle weight rating greater than 14,000 pounds) to conduct the home occupation is prohibited, unless allowed by the underlying zoning district. This excludes commercially utilized vehicles less than 14,000 pounds.

SUPPLEMENTAL USE REGULATIONS

- (g) No home occupation shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
 - (h) The home occupation will not be more dangerous to life, personal safety or property than any other activity ordinarily carried on with respect to a dwelling unit used solely for residential purposes.
2. Employees:
- (a) The home occupation will be managed and owned by a person residing in the dwelling unit.
 - (b) The home occupation shall not employ on-site any person other than residents of the dwelling unit.
3. Extent of Use: The home occupation will not exceed more than 25 percent of the dwelling's gross floor area, which shall exclude the floor area of an attached or detached garage or an accessory building.
4. Signage: Each home occupation will be limited to a single, non-animated, non-illuminated, nonreflecting nameplate not more than two square feet in area, which nameplate designates the name of the home occupation carried on within, in letters not to exceed two inches in height and attached to the building wherein the home occupation is conducted.
5. Traffic Generation and Parking
- (a) The home occupation will be conducted so that it does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes as places of residence.
 - (b) The home occupation will not require the delivery or shipment of materials, merchandise, goods or equipment by vehicles other than passenger motor vehicles, on ton step-up vans or similar-sized trucks that are less than seven tons gross vehicle weight.
 - (c) Parking needs generated by a home occupation shall be satisfied with off-street parking. No more than one vehicle used in connection with any home occupation shall be parked on the property. No more than two on-street parking spaces shall be used by the home occupation at any time.
6. Prohibited Home Occupations: The following activities are prohibited as home occupations, even if they meet the other requirements set forth in this section:
- (a) Animal hospitals.
 - (b) General retail sales.
 - (c) Mortuaries.
 - (d) Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses.
 - (e) Stables or kennels.

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(f) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

(g) Tattoo parlors.

7. The home occupation will be operated in accordance with all applicable laws. If a state permit is required, such permit shall be obtained prior to beginning operation.

c. Permitted Accessory Uses: Residential Uses

Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residential use.
2. Recreational activities and uses by residents.
3. Home occupations and home-based businesses, subject to Section 611(a) & 611 (b) of these regulations.
4. Residential convenience services for multi-family uses or mobile home parks.
5. Garage sales, provided that the frequency of such sales at any one location shall not exceed one during a continuous, two month period or four sales during any twelve month period.

d. Permitted Accessory Uses: Civic Use Types

Guidance Services and Health Care use types are permitted in the LI Limited Industrial zoning districts only as accessory uses to a primary industrial use.

e. Permitted Accessory Uses: Other Use Types

Other use types may include the following accessory uses, activities, and structures on the same lot:

1. Parking for the principal use.
2. Manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.
3. Services operated for the sole benefit of employees of the principal use.

f. Permitted Accessory Uses: Agricultural Use Types

1. Garden centers and roadside stands, subject to the regulations set forth in Section 6-2(a) (2).
2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.
3. Other uses and activities deemed appropriate by the granting of a Conditional Use Permit.

612 Supplemental Use Regulations: Outdoor Storage outside of the LI and GI Zoning Districts

Outdoor storage is prohibited in all zoning districts except the GI General Industrial zoning district, except as provided in this section.

a. Agricultural Use Types

Outdoor storage is permitted only where incidental to agricultural uses.

b. Civic Use Types

Outdoor storage is permitted only where incidental to Maintenance Facilities.

c. Commercial Use Types

1. Outdoor storage is permitted where incidental to Agricultural Sales and Service; Auto Rentals and Sales; Construction Sales; Equipment Sales and Service; Stables and Kennels; and Surplus Sales.
2. Outdoor storage is permitted where incidental to Auto Services, Equipment Repair, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Section 805. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.

d. Industrial and Miscellaneous Use Types

1. Outdoor storage is permitted where it is incidental to industrial uses within the AG and LI zoning districts. Any such outdoor storage is subject to screening requirements set forth in Article Eight.
2. Outdoor storage is permitted where incidental to landfills.

613 Supplemental Use Regulations: Temporary Uses

a. Purpose

These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of the Zoning Ordinance and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.

b. Temporary Use Types

The following temporary uses are permitted, subject to the regulations contained within these sections:

1. Model homes or apartments, if contained within the development to which they pertain.
2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
3. Public assemblies, displays, and exhibits.

4. Commercial circuses, carnivals, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within a DC or more intensive zoning district.
 5. Outdoor art shows and exhibits.
 6. Christmas tree or other holiday-related merchandise sales lots provided that such facilities are not located in a residential zoning district.
 7. Construction site offices, if located on the construction site itself.
 8. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
 9. Construction Batch Plants in the GC and LI District , provided that:
 - (a) No plant may be located within 600 feet of a developed residential use, park, or school.
 - (b) The facility is located no more than one mile from its job site. The Zoning Administrator may extend this distance to two miles, if such extension avoids use of local streets by plant-related vehicles.
 - (c) Hours of operation do not exceed 12 hours per day.
 - (d) The duration of the plant's operation does not exceed 180 days.
 10. Additional temporary uses that the Zoning Administrator determines to be similar to the previously described uses in this section.
- c. Required Conditions of All Temporary Uses
1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
 2. The Zoning Administrator may establish other conditions which he/she deems necessary to ensure compatibility with surrounding land uses.
- d. Permit Application and Issuance
1. An application to conduct a temporary use shall be made to the Zoning Administrator and shall include at a minimum a description of the proposed use; a diagram of its location; information regarding hours and duration of operation; and other information necessary to evaluate the application.
 2. The Zoning Administrator may authorize a temporary use only if he/she determines that:
 - (a) The use will not impair the normal operation of a present or future permanent use on the site.
 - (b) The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.

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3. The duration of the permit shall be explicitly stated on the permit.
4. Decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

7

ARTICLE SEVEN

SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

701 Purpose

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements. Recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this Ordinance and provide for specific areas of exception.

702 Lot Size Exceptions

In any district permitting residential use types, a single-family or duplex use type may be located on any lot or plot of official record as of the effective date of this Ordinance, regardless of its area or width, but subject to the following requirements:

- a. The sum of the widths of the side yards of such lot shall be the lesser of those required by the district regulations or 25% of the width of the lot. No single interior side yard shall be less than 10% of the width of the lot. This exception does not apply to street side yards.
- b. The depth of the rear yard of such lot need not exceed 20% of the depth of the lot, but shall not be less than 20 feet.
- c. If two or more such adjacent lots are combined under single ownership, the resulting combined lots shall be treated as a single lot for purposes of applying these setback requirements.

703 Setback Adjustments

a. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.

b. Encroachments on Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three feet into a required yard.
2. Terraces, patios, uncovered decks, and ornamental features, which have no structural element more than three feet above or below the adjacent ground level, may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or twenty feet from any street property line.

3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
4. For buildings constructed upon a front property line, a cornice may project into public right-of-way. Maximum projection is the smaller of four feet or five percent of the right-of-way width.
5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
6. Swimming pools shall be subject to the same location and setback requirements as accessory buildings.
7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.
8. Setbacks for accessory buildings are set forth in Section 705.

c. Setbacks on Arterial Streets

1. Notwithstanding any other provision of this ordinance, all buildings built or altered along a State or Federally designated highway shall maintain a 175 foot setback from the centerline of such highway. Within 100 feet of the centerline of an intersecting State or Federally designated highway, the setback shall increase to 210 feet from such centerline.
2. Any required off-street parking area along a State or Federally designated highway shall maintain a 150-foot setback from the centerline of such highway. Within 100 feet of the centerline of an intersecting State or Federally designated highway, the setback shall increase to 185 feet from such centerline.
3. Lots of record under five acres in size; lots of record duly platted and approved prior to the effective date of this Ordinance, or where a properly dedicated and accepted frontage road right-of-way exists are exempt from these provisions and are instead subject to the setback requirements of their respective zoning district.

d. Setback Adjustments

1. Setbacks on Built-Up Blockfaces

These provisions apply if thirty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

- (a) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.

- (b) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.
- (c) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.
- (d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

2. **Corner Lots**

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

e. **Rear Yard Exceptions - Residential Uses**

When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than sixty percent (60%) of the rear yard required by the zoning district.

f. **Double Frontage Lots**

Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

g. **Satellite Antennas**

- 1. Each lot shall have no more than one satellite antenna.
- 2. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.
- 3. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:
 - (a) Such antennas shall be located no less than ten feet from the property line of an adjacent property line.
 - (b) The maximum height shall be 15 feet and the maximum diameter shall be 11 feet.
 - (c) Each antenna shall be screened by a six-foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

h. **Vision Clearance Zones**

Except in the DC District, no structure, including a fence, shall be built to a height of more than three feet above the established grade on the part of the lot within a vision clearance zone. The vision clearance zone shall be a triangle measured from the point of intersection of the right-of-way lines of

the streets to a point 30 feet in each direction from the intersection along such right-of-way lines. No landscaping shall be planted in such area, which will materially obstruct the view of drivers approaching the street intersection.

704 Accessory Buildings and Garages

a. Setbacks and Setback Flexibility

Accessory buildings for residential uses are subject to all site development regulations of its zoning district, except as provided below:

1. **Side Yards:** An accessory building may be located a minimum of three feet from the side lot line of the property if it is located in an area from six feet behind the rear building line of the principal building to the rear property line and is under 15 feet in height. An additional one-foot setback is required for every two feet above 15 feet in height, up to the minimum requirements of the zoning district.
2. **Front Yards:** No accessory building may be located between the front building line of the principal building and the front property line.
3. **Rear Yard:** The minimum rear yard setback for accessory buildings shall be 5 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory building is a garage with a vehicular entrance door that is directly oriented toward an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.
4. **Street Yards:** No accessory building shall be located within 20 feet from any street right-of-way line.
5. **Garage Setbacks:** Any garage that fronts on a public street must be set back at least 25 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

b. Maximum Size and Number of Residential Accessory Buildings

1. R-1, R-2, R-3, R-4 or R-5 Residential Districts, RL- Lake and River Residential, RR – Rural Residential or AG – Agricultural/Urban Reserve District with a net lot area of less than 5.00 Acres (area excluding public right-of-way), or RR District or AG District with net lot area of 5.00 acres or more (area excluding public road right-of-way) with Section 704 modified setbacks.
 - a) No accessory building other than a detached garage shall not exceed the greater of 150 square feet or 1.5% of the total lot area. All accessory buildings shall require a building permit.
 - b) The maximum size of a detached garage accessory building for a single-family detached, single-family attached or duplex residential use shall not exceed 25% of the required rear yard or 100% of the primary residential structure or in any case exceed 864 square feet. This regulation shall not prohibit construction of a single 720 square foot garage even if such construction exceeds these restrictions.

- c) There shall not be more than two accessory buildings per dwelling unit, plus one for pets not exceeding 16 square feet.
 - d) All accessory buildings on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not in any case occupy more than 25% of the required rear yard and 120% of the building coverage of the primary residential structure. This regulation shall not prohibit construction of a single 720 square foot garage on a minimum rear yard, even if such construction exceeds these restrictions.
2. Agriculture/Urban Reserve District RL- Lake and River Residential, and RR – Rural Residential District with net lot areas of 5.00 acres or more (area excluding public road right-of-way), provided AG District standard setback requirements are met.
- a) The maximum size of an accessory building for a single family detached, single family attached or duplex residential use shall not exceed 1.0% of the net lot area (excluding public road right-of-way), or 200% of the primary residential structure, or 2,400 square feet. An accessory building may exceed these maximums subject to approval of a Conditional Use Permit and other requirements of this section.
 - b) All accessory buildings on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not in any case occupy more than 1.55% of the net lot area (excluding public road right-of-way), or 300% of the building coverage of the main structure.

Architectural Requirements for Accessory Buildings

- 1. Exterior building materials and architectural designs used for all accessory buildings over 150 square feet and detached garage accessory buildings for single-family detached, single-family attached or duplex residential structures shall be consistent with the character of, or architecturally harmonious with, the existing primary residential structure.
- 2. Exterior materials shall be non-reflective and shall be of a color, material, and scale comparable to existing residential structures in the immediate area. Permanent siding shall be, or simulate, wood, wood shingles, brick, masonry, or tile. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run. Roof construction shall be of non-reflective materials, which either are or simulate the appearance of asphalt, wood shingles, tile, or rock.
- 3. All accessory buildings over 150 square feet shall comply with these architectural requirements, unless other architectural requirements are approved as part of a Conditional Use Permit, or unless the building is in the AG or RR District with a net lot area of 5.00 Acres or more (area excluding public road right-of-way) and provided the AG District standard setbacks are met.

d. Height of Accessory Buildings

In residential districts, the maximum height shall not exceed the lesser of the height of the main structure or 16 feet for any accessory building. Maximum height for a detached garage and/or other accessory building in an AG or RR District shall be 20 feet.

e. Other Requirements for Accessory Buildings: Physical Separation, Effects on Other Properties, Hazards, and Sequencing of Construction

1. Separation from Other Buildings: No accessory building shall be placed within six feet of any other building on its own property.
2. Attached Accessory Buildings: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.
3. Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory building must be entirely to the rear of the front line of any principal building on such adjacent lot.
4. Hazards: Any accessory use, which creates a potential fire hazard, shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.
5. No accessory building shall be built upon any lot until construction of the principal building has begun.

705 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

a. Vertical Projections

Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances.

b. Amateur Radio Towers and Federal Communication Commission Pronouncements

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Board of Adjustment may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).
3. Such radio towers shall not be located within any front yard of the primary use.

c. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

d. Communications Towers

Communications towers, when operated by a federally-licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators. Such towers are subject to the requirements of Section 10.610b.

e. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are exempt from the height restrictions of the base district but is subject to the regulations of Section 10.610c.

f. Conditional Use Approvals

The Planning Commission may grant an exception from the height limit for a zoning district for a Conditional Use as part of its approval of that use. The limit or extent of this exception shall be a specific part of the Conditional Use Permit.

g. Federal Aviation Administration Rules

No structure may be built in any zoning district, which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Fremont.

706 Exceptions to Site Development Regulations for Conservation Subdivisions

a. Purpose

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for Conservation Subdivisions, the city may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to Conservation Subdivisions.

b. Site Area Per Unit

Unless otherwise provided, the site area per unit for a conservation subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the conservation subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

c. Perimeter Yards

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
2. Structures must maintain a 20-foot minimum sideyard setback from any property line that forms the boundary of the development.

d. Area and Yards for Individual Lots

1. Individual lots within a conservation subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the regulations for a specific zoning district. A conservation subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Fremont's efforts to protect public health, safety, welfare, community character, property values and aesthetics.
2. Any private garage oriented to or facing a public street or private way internal to the conservation subdivision must be set back a minimum of 25 feet from that public street or private way.

e. Coverage and Landscaping Requirements

Individual lots in a conservation subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

707 Fence Regulations

a. Location Restriction

1. Unless otherwise provided by this Ordinance or other sections of the Fremont Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines or tract outside the surveyed lot lines.
2. No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

b. Applicability

The regulations contained in Sections 11.707(b) through 11.707(j) apply to all fences with a height above grade of 30 inches and over.

c. Required Openings

Unless otherwise provided by this Ordinance or other sections of the Fremont Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.

d. Sight Obstruction Intersections

No fence or hedge permitted or required by this article or other sections of the Fremont Municipal Code shall be built to a height of more than three feet above the established grade on the part of the lot within a vision clearance zone. The vision clearance zone for fence construction shall include:

1. At street intersections, a triangle measured from the point of intersection of the right-of-way lines of the streets to a point 30 feet in each direction from the intersection along such right-of-way lines. No landscaping shall be planted in such area, which will materially obstruct the view of drivers approaching the street intersection.
2. At intersections of a sidewalk and alley or non-residential driveway or parking lot access, a triangle whose legs extend 15 feet back from the sidewalk along the alley or driveway, and 15 feet parallel to and along the back of the sidewalk back from the intersecting alley or driveway.
3. At intersections of an interior lot line and an alley and/or driveway, a triangle whose legs extend back 15 feet each way.

e. Facing

The finished surfaces of any fence shall face toward adjacent properties and street frontage.

f. Effect on Adjacent Properties and Drainage

Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

g. Fence Construction on Utility Easements

Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request of the owner of the easement whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

h. Protective Fences around Swimming Pools

A fence with a minimum height of six feet and compliant with the terms of this section shall be required around public or private swimming pools.

i. Residential Fences

Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be 42 inches. The maximum height for any fence outside of a required front yard shall be six feet.
2. Exception for Street Side Yards: On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.

3. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed of 50 percent closed construction.
4. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City of Fremont; and if such frontage does not provide primary access to the property.
5. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

j. Civic, Office, Commercial, and Industrial Fences

Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts shall be eight feet.
3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Fremont.
4. Barbed wire shall not be used in the construction of any fence outside of the GI General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Fremont.

708 Appeals

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Sections 1208 through 1210.

8

ARTICLE EIGHT

LANDSCAPING AND SCREENING STANDARDS

801 Purpose

The Landscaping and Screening Regulations provide additional guidance on the development of sites within Fremont by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land uses from one another; and conserve the value of properties within the City of Fremont.

802 Applicability

The provisions of this section shall apply to all new development on each lot or site upon application for a building permit, except for the following:

- a. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
- b. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
- c. Additions or enlargements of existing uses or structures, which increase floor area or impervious coverage area by less than 50 percent. Where such additions or enlargements are 50 percent or greater, these provisions shall apply to the entire lot or site where the new development occurs.

803 Landscaping Requirements

Landscaping shall be required adjacent to each street property line and within street yards as set forth in Table 8-1.

804 Landscaping Materials and Installation Standards

a. Official List of Prohibited Plant Materials

No plant material listed on a list of restricted or prohibited plant materials provided through the office of the Zoning Administrator shall be installed in required landscaped areas or bufferyards. All plant materials shall conform in size, species and spacing with this section of the ordinance.

b. Use of Inorganic Landscaping Materials

No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than 35% of the minimum required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for driveways and walkways.

Table 8-1: Required Landscape Depth

Zoning District	Depth of Landscaping Adjacent to Street Property Line
AG	35 feet
RR	25 feet
RL	20 feet
R-1	20 feet
R-2	20 feet
R-3	15 feet
R-4	15 feet
R-5	50 feet
UC	10 feet
LC	15 feet
DC	No Requirement
CC	10 feet
GC	10 feet
HC	15 feet
BP	25 feet
LI	10 feet
GI	No Requirement

805 Bufferyard Provisions

These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 8-2. Bufferyards are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

- a. The bufferyard dimensions set forth in Table 8-2 applies to zoning districts that share a common lot line or are adjacent but separated by an intervening alley.

Table 8-2: Bufferyard Requirements (in feet)

	District B (Less Intensive Adjacent District)		
District A (More Intensive District) Note 3	AG, RL, RR (Note 1)	R-1, R-2, R-3 (Note 1)	R-4 (Note 1)
R-4	20	20	---
UC	15 Note 2	15 Note 2	15 Note 2
DC	---	---	---
LC	25	25	20
CC, GC	25	25	20
LI	40	40	30
GI	100	100	100

Notes to Table 8-2:

Note 1: Applies only to residential uses or preliminary plats previously established in the zoning district.

Note 2: Buffering requirement applies to adjacencies between commercial and office use types and pre-existing residential land uses in adjacent districts. Buffering requirement also applies to a commercial or office use type established in a UC District and adjacent to a pre-existing residential use in the UC District. Vertical screening may also be required as set forth in Section 806.

Note 3: Buffer requirements do not apply to single-family, duplex, or townhouse residential uses established in District A

- b. When a street separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in Table 8-2.
- c. Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

806 Screening Standards

a. Application

Screening is required between adjacent zoning districts indicated in Table 8-2 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district:

- 1. The rear elevation of buildings.
- 2. Outdoor storage areas or storage tanks, unless otherwise screened.

3. Loading docks, refuse collection points, and other service areas.
4. Major machinery or areas housing a manufacturing process.
5. Major on-site traffic circulation areas or truck and/or trailer parking.
6. Sources of glare, noise, or other environmental effects.

b. Opaque Barrier

A six-foot opaque barrier shall be provided which visually screens the conditions listed in Section 806 (a) from less intensive uses as follows:

1. A solid wood and/or masonry fence or wall at least six feet in height.
2. A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting.
3. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.
4. Any combination of these methods that achieves a cumulative height of six feet.

c. Location of Screening Wall

1. A screening wall or fence shall be installed no closer to the less intensive zoning district than one-half the width of the required bufferyard.

d. Screening: Effect on Drainage

Screening shall not adversely affect surface water drainage.

e. Permitted Interruptions of Screening

Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed 20% of the length of the required screened area.

807 Tree Plantings

In any landscaped area for commercial or industrial uses only required by the Minimum Depth Requirements, the Bufferyard Requirements, or the Parking Lot Interior Landscaping Requirements, one tree of an approved species with a minimum caliper size of two inches shall be planted and maintained for each 500 square feet of required landscaped area. Existing trees approved for preservation shall be counted toward satisfaction of this requirement.

808 General Provisions

a. Time of Application

The provisions contained in this Article shall be applied for each individual lot or site when an application for a building permit on such lot is made. When required, a Landscape Plan shall be

LANDSCAPING AND SCREENING STANDARDS

submitted with each application for a building permit. Such plan shall be reviewed by the Zoning Administrator for compliance with the provisions of this section.

b. Maintenance of Required Landscaping

Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistent with this Article.

c. Obstruction of View

Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk.

d. Earth Berm Locations

All earth berm locations shall be reviewed by the Zoning Administrator, or his/her designee to determine how the berms shall relate to drainage and public utilities.

e. Exceptions

A development may continue to comply with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with bufferyard or screening provisions.

9

ARTICLE NINE

OFF-STREET PARKING

901 Purpose

The Off-Street Parking Regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

902 General Applications

(a) Applicability

Off-street parking shall be provided for any new building constructed; for new uses or conversions of existing buildings; or for enlargements of existing structures.

b. Exemptions

Any use within the DC Downtown Commercial District is exempt from the off-street parking requirements provided by Section 903. Any off-street parking facility constructed in the DC District after the effective date of this Ordinance must comply with the design standards set forth in this Article.

903 Schedule of Off-Street Parking Requirements

Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 9-1.

a. Computation

1. When a computation of required parking results in a fraction of 0.5 or greater, the requirement shall be rounded up to the next whole number.
2. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.
3. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code or other official determinations of occupancy in effect for the City of Fremont at the time the use is established.

OFF-STREET PARKING

TABLE 9-1: Minimum Off-Street Parking Requirements

Agricultural Use Types	
Horticulture	1 space per 1,000 square feet of sales area.
Crop/ Animal Production	No requirement.
Residential Use Types	
Single-Family Residential	2 spaces per dwelling unit.
Duplex Residential	2 spaces per dwelling unit.
Two-Family Residential	2 spaces per dwelling unit.
Multi-Family Residential	1.5 spaces per efficiency or 1-BR unit; 2 spaces per units with two or more bedrooms;
Downtown Residential	No requirement
Group Residential	1 space for each resident.
Mobile Home Residential	2 spaces per dwelling unit.
Retirement Residence	1 space per independent living unit; 0.5 spaces per assisted living unit;
Civic Use Types	
Administration	1 space for 300 square feet of gross floor area.
Cemetery	No requirement.
Clubs	1 space per 4 person capacity.
College/University	1 space per three students.
Convalescent Services	1 space for 4 beds.
Cultural Services	1 space per 500 square feet of gross floor area.
Day Care Services	1 space per 5 person capacity + 1 space per employee of largest shift.
Group Care Facility	1 space per 4 person capacity + 1 space per employee of largest shift.
Group Home	1 space per 4 person capacity + 1 space per employee of largest shift.
Guidance Services	1 space per 300 square feet.
Health Care	1 space per 300 square feet + 1 space per employee of largest shift.
Hospitals	1 space per 2 beds + 1 space per employee of the largest shift.
Maintenance Facilities	See Schedule A.
Parks and Recreation	Adequate parking based on an approved park master plan.
Postal Facilities	See Schedule A.
Primary Education	1 space per employee of largest shift + 10 stalls for visitors.
Public Assembly	1 space per 4 person capacity.
Religious Assembly	1 space per 4 person capacity in largest assembly area.
Safety Services	1 space per employee of maximum shift + 1 stall per 1,000 sq. ft.
Secondary Education	1 space per employee of max shift + 1 space for each 3 11th and 12th grade students, based on the average enrollment of such students over the preceding five years.
Utilities	1 space per employee of maximum shift

TABLE 9-1: Minimum Off-Street Parking Requirements

Commercial Use Types	
Agricultural Sales/Service	See Schedule A.
Auto Rental and Sales	See Schedule A.
Auto Service	4 times service capacity. See Note 1
Body Repair	5 spaces per repair stall. See Note 1
Business Support Services	1 space per 500 square feet.
Campground	1.5 spaces per camping unit.
Cocktail Lounge	1 space per 200 square feet.
Commercial Recreation	1 space per 4 person capacity. For bowling alleys, 4 spaces per lane.
Communication Services	1 space per 500 square feet.
Construction Sales	See Schedule A.
Consumer Services	1 space per 200 square feet.
Convenience Storage	1 space per 20 storage units. See Note 2
Equipment Sales/Service	See Schedule A.
Food Sales (All Types)	1 space per 200 square feet.
General Retail Services	1 space per 200 square feet.
Liquor Sales	1 space per 200 square feet.
Lodging, Bed and Breakfast	1 space per unit.
Personal Improvement	1 space per 200 square feet.
Personal Services	1 space per 300 square feet.
Pet Services	1 space per 500 square feet.
Restaurants (Drive-in)	1 space per 50 square feet of customer service area.
Restaurants (General)	1 space per 3 person capacity in dining area.
Stables/Kennels	1 space per employee + 1 stall per 5,000 sq. ft. of site area.
Surplus Sales	See Schedule A.
Telemarketing	1 space per 30 square feet See Note 3
Trade Services	1 space per 500 square feet.
Veterinary Services	1 space per 500 square feet.

Notes:

1. Auto Service and Body Repair subject to other restrictions applicable under this ordinance:
See Section 4: Use Types - "Vehicle Storage"; also,
Section 6: Supplemental Use Regulations, "Outdoor Storage."
2. This standard may be reduced by up to 20% at the discretion of the Building Official, if site plan review demonstrates that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation.
3. This standard may be reduced to provide a minimum of one space for each workstation and supervisor.

TABLE 9-1: Minimum Off-Street Parking Requirements

Office Use Types	
Corporate Offices	1 space per 300 square feet.
General Offices	1 space per 300 square feet.
Financial Services	1 space per 300 square feet.
Medical Offices	6 spaces per staff doctor, dentist, or Physician's Assistant.
Miscellaneous Use Types	
Broadcasting Tower	See Schedule A.
Non-Putrescible Landfill	See Schedule A.
All Landfills	See Schedule A.
Industrial Use Types	
Agricultural Industries	See Schedule A.
Light Industry	See Schedule A.
General Industry	See Schedule A.
Heavy Industry	See Schedule A.
Railroad Facilities	See Schedule A.
Resource Extraction	1 space per employee on largest shift.
Salvage Services	See Schedule A.
Warehousing	See Schedule A.
Construction Yards	See Schedule A.

Schedule A	
This schedule sets forth minimum off-street parking requirements for uses with elements that have different functions and operating characteristics	
Function of Element	Requirement
Office or Administration	1 space per 300 square feet.
Indoor Sales, Display or Service Area	1 space per 500 square feet.
Outdoor Sales, Display or Service Area	1 space per 2,000 square feet.
Equipment Servicing or Manufacturing	1 space per 1,000 square feet.
Indoor or Outdoor Storage or Warehousing	1 space per 5,000 square feet.

904 Parking Facility Location

a. Residential Parking

1. Off-street parking for residential uses shall be located on the same lot or site as the use.
2. Off-street parking areas for any multi-family residential uses shall be at least six feet from any main building; and shall not be located within a required front yard or street side yard.
3. For multi-family residential uses, separately leased, detached garages may not be used to satisfy parking requirements for such uses, Parking incorporated into the design of multi-family buildings, or within parking structures, shall be counted toward fulfillment of parking requirements.

b. Non-residential Parking

Off-street parking for non-residential uses shall be located on the same lot or site as the use, or within 300 feet of that use if the parking site is within a zoning district that permits the Off-Street Parking use type. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission.

905 Parking for People with Disabilities

Each off-street parking facility shall provide the number of parking spaces set forth in Table 9-2 designed and designated for use by people with disabilities. Every eighth parking space shall be van-accessible. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the Americans with Disabilities Act. Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

TABLE 9-2: Accessible Parking Requirements

Number of Stalls	Number of Required Accessible Spaces	Number of Stalls	Number of Required Accessible Spaces
1-25	1	201-300	7
26-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of total
101-150	5	1,001 and over	20, plus 1 for each 100
151-200	6		stalls over 1,000

906 **Off-Street Parking Design Standards**

a. Dimensions

1. Standard parking stalls shall be 9 feet wide and 18 feet long.
2. Where parking stalls are located adjacent to landscaped areas, the paved depth of such stalls may be decreased by two feet to provide for a vehicle overhang area. The vehicle overhang area may not encroach into a required landscaped area or public sidewalk.
3. Spaces designated for the handicapped shall have a minimum width of 12 feet. Each handicapped space shall provide a barrier free route to an accessible building entrance, which shall not require users to walk or wheel behind parked cars. Such spaces shall be designated with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.

b. Pavement and Drainage

1. Off-street parking facilities shall be surfaced with concrete, asphalt, asphaltic concrete, or brick and shall be maintained with materials sufficient to prevent mud, dust, or loose material except as provided below:
 - (a) Sites within the AG and RR Districts are exempt from this requirement.
 - (b) In residential areas, all parking spaces and driveways used for parking shall be paved; however, this requirement does not extend to driveways not used under any conditions for parking.
 - (c) In GI Districts, the paving requirement for certain parking and loading areas more than 100 feet back from any public right-of-way may be waived, following review and approval of a specific site plan by the Zoning Administrator.
2. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties.

c. Landscape and Screening Requirements

Unless otherwise noted, each unenclosed parking facility of over 6,000 square feet shall comply with the following regulations:

1. Each unenclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.
2. Each parking facility that abuts a residential district shall provide a ten foot landscaped buffer along its common property line with the residential district.
3. Any parking facility, which abuts property in a residential district, shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the

length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Building Official.

4. Each unenclosed parking facility of over 6,000 square feet within any street yard shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility. Parking facilities within the LI and GI Districts shall be exempt from this requirement.
5. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in Article Eight.
6. Landscaping or screening installed in any required landscaped area shall not obstruct the view from or form the off-street parking facility to any driveway approach, street, alley, or sidewalk. Landscaping shall further not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.

d. Entrances and Exits

1. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.
2. Parking facilities other than driveways for single-family, duplex, two-family, or mobile home residential uses must permit vehicles to enter streets in a forward position.

e. Safety Features

1. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
2. Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

f. Maintenance

All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

g. Adjustment

For uses subject to a Conditional Use Permit approval, the Planning and Zoning Commission may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this Article.

907 Bicycle Parking

a. Parking Requirements

1. Each parking facility providing 50 spaces or more shall provide parking accommodations for bicycles as provided by the Table 9-3:

TABLE 9-3: Bicycle Parking Requirements

Number of Parking Stalls	Required Bicycle Spaces
50-100	5
100-150	8
150-200	10
Over 200	2 additional spaces for each 50 parking stall

2. Bicycle parking facilities shall include bicycle racks secured to prevent easy removal, bicycle lockers, or bicycle posts or bollards expressly designed for the secure storage.
3. The location of bicycle parking facilities shall be at least as convenient to the main entrance of the primary use as the most convenient automobile parking not reserved for use by disabled people.
4. Bicycle parking should be located to prevent hazards or obstructions to the normal flow of pedestrians into a use.

908 Off-Street Loading

a. Loading Requirement

In any district with every building or part thereof hereafter erected, having a gross floor area of ten thousand square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one off-street loading space plus one additional such loading space for each twenty thousand square feet or major fraction thereof of gross floor area, so used, in excess of ten thousand square feet.

b. Design Standards

1. Each loading space shall be at least 12 feet wide by 40 feet long, with a vertical clearance of at least 14 feet.
2. Paving of loading spaces and access areas shall be permanent, durable, and free of dust.
3. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Article.

c. Schedule of Loading Spaces

Loading spaces for each use requiring them shall be provided in accord with the minimum requirements set forth in Table 9-4.

TABLE 9-4: Off-Street Loading Requirements

Gross Floor Area of Use (square feet)	Number of Required Loading Spaces
5,000 or less	None
5,001 - 25,000	1
25,001 - 75,000	2
Larger than 75,000	3

909 Parking for Personal and Recreational Vehicles

a. Applicability

This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include: passenger cars; vans; pick-up trucks; camper shells, toppers, and other similar appurtenances intended for attachment to a personal vehicle; trailers under 25 feet in length, and boats under 25 feet in length. The maximum height of any Personal Vehicle shall be eight feet from grade. Trucks, tractor cab units, trailers, recreational vehicles, boats over 25 feet in length and vehicles over ten tons gross empty weight shall be defined as heavy commercial vehicles.

b. Location of Parking

1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
2. Parking of personal vehicles is permitted on a paved driveway (outside of an enclosed structure) within the front yard setback, but shall in no case encroach upon the public right-of-way.
3. Parking of personal vehicles may occur in the rear yard setback (outside of an enclosed structure and not on the front yard paved driveway) if the Zoning Administrator determines that such parking conforms to the provisions of the Zoning Ordinance, meets the following conditions:
 - (a) The parking space is provided on a paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.
 - (b) The paved parking does not exceed the maximum impervious coverage limit for the lot.
4. Heavy commercial vehicles, including tractor cab units rated at more than 10 tons gross vehicle weight, and recreational vehicles shall not be parked on any lot within a residential zoning district, except as provided below.

c. Special Provisions for Recreational Vehicles and Boats

Parking and storage of recreational vehicles and boats within residential districts is subject to the following additional conditions. These conditions are in addition to those requirements for the parking of Personal Vehicles.

1. Recreational vehicles and boats must be maintained in a clean, well-kept state.
2. Recreational vehicles and boats equipped with liquefied petroleum gas containers must ensure that such containers must meet the current standards of the Interstate Commerce Commission, the United States Department of Transportation, or the American Society of Mechanical Engineers. Any valves must be closed at all times that the vehicle is not in preparation for immediate use. Leaks in containers must be repaired immediately.
3. Recreational vehicles may be used as temporary parking by non-paying guests for a maximum of three consecutive days or fourteen days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.
4. Recreational vehicles and boats may not be permanently connected to utility lines.
5. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items, which pertain to the use of the vehicle.
6. If feasible on a lot, recreational vehicles and boats shall be parked outside of required front yard and street side yard setbacks.

910 Supplementary Regulations: Storage and Parking of Unlicensed or Other Vehicles

The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Fremont, except for motor vehicles held for sale by a licensed motor vehicle dealer at his/her place of business in a zoning district which permits such use.

911 Stacking Requirements for Drive-Through Services

Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances as provided by Table 9-5.

TABLE 9-5: Off-Street Stacking Requirements

Types of Operation	Minimum Stacking Space
Financial Institution – Electronic Teller	2 vehicles per lane*
Financial Institution – Personal Teller	3 vehicles per window or kiosk*
Car Wash – Self Service	2 vehicles per bay at entrance* 1 vehicle per bay at exit
Car Wash – Automatic/Conveyor	200 ft. (91.4 m) per bay at entrance* 2 vehicles per bay at exit
Drive-Thru Restaurant	4 vehicles per window*
Drive-Thru Coffee Shop	
- Drive Side Service	4 vehicles per lane*
- Passenger Side Service	2 vehicles per lane*
Drive-Thru Pharmacy	2 vehicles per lane*
Service Stations	
-Service Islands	2 vehicles per pump lane*
-Service Bay	1 vehicle per bay*
- Quick Lube/Oil Change	2 vehicles per bay*
- “Starting Gate Design”	
- (4 or more pump islands side by side 18 ft. (5.5 m) apart)	1 vehicle per lane*
Gated Parking Lot Entrance	1 vehicle per gate
Garage Unit or Overhead Door (Major Streets Only)	1 vehicle per door
Other Uses	2 vehicles per lane being serviced

* Stacking requirements are in addition to vehicle being served.

Required vehicle stacking shall not block driveways or required parking stalls and shall not be located in side, front or rear yards where parking stalls are prohibited. Each vehicle-stacking unit shall be 22-ft. (6.7 m) long.

Required stacking may be reduced by approval of the City Council following site plan review by the Planning Commission. Site plan review must demonstrate that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation.

10

ARTICLE TEN

SIGN REGULATIONS

1001 Purpose

The Sign Regulations provide standards for communicating information in the environment of the City of Fremont and its jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the city's attractive appearance; to provide for adequate business identification, advertising, and communication of information; and to encourage the fair enforcement of sign regulations.

1002 Definition of Terms

The following definitions shall be used for terms contained in this chapter that are not otherwise defined in the Fremont Municipal Code or in this Zoning Ordinance.

1. **Abandoned Sign:** A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.
2. **Attached Sign:** A sign, which is structurally connected to a building or depends upon that building for support
3. **Auxiliary Design Elements:** Terms, which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.
4. **Awning and Awning Sign:** A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An awning sign is a message printed on such a shelter.
5. **Banner:** Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
6. **Building Marker:** A historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
7. **Business Center Identification Sign:** A sign, which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.
8. **Canopy Sign:** A sign, which is attached or made an integral part of a canopy.
9. **Clearance:** The distance from the bottom of a sign face elevated above grade and the grade below.
10. **Detached Sign:** A sign, which is self-supporting and structurally independent from any building.

11. Electronic Information Sign: Any sign intended primarily to provide information of general community interest, including time, temperature, date, atmospheric conditions, news, traffic control, or commercial messages pertaining to the use on the premises, by means of an electronic display.
12. Flashing Sign: Use of an intermittent light source, including the illusion of intermittence through animation or other external light sources. Electronic information signs are excluded from this definition, except of the flashing mode of these signs.
13. Directional Sign: A sign which serves only to designate the location or direction of any area or place.
12. Double-Faced Sign: A sign consisting of no more than two parallel faces supported by a single structure.
13. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court.
14. Ground Sign: A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than 3 feet.
15. Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.
16. Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.
17. Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.
18. Monument Sign: An on-premise freestanding sign with the appearance of a solid base.
19. Moving Sign: A sign, which conveys its message through rotating, changing, or animated elements.
20. Multi-Prism Indexing Sign: A sign made with a series of triangular vertical or horizontal sections that turn and stop, or index, to show one of three pictures or messages at a time within a defined sign face area. Such signs shall change their picture and/or message no more frequently than once every 20 seconds and includes no more than one double-faced sign in any single location, excluding back to back installations. In no case shall more than one multi-prism indexing sign be visible to the approaching vehicular and/or pedestrian traffic or to the public in general.
21. Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.
22. Pole Sign: An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than 3 feet.

23. **Portable Sign:** Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.
24. **Premise Identification Sign:** An sign which pertains to the use of a premises and which contains information about the owner or operator of that use; the type of business being conducted or the principal brand name of a commodity sold on the premises; and other information relative to the conduct of the use.
25. **Premises:** A tract of one or more lots or sites, which are contiguous, and under common ownership or control.
26. **Projecting Signs:** A sign other than a wall sign that is attached to and projects from a building face.
27. **Residential Sign:** A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.
28. **Roof Sign:** Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.
 - (a) **Integral Roof Sign:** A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.
 - (b) **Above-peak Roof Sign:** A roof sign positioned above the peak of a roof or above a parapet or cornice.
29. **Sign:** A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
30. **Sign Type:** A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.
31. **Street Facade:** Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, private way, or court. Separate faces oriented in the same direction or within 45 degrees of one another are considered part of the same street facade.
32. **Temporary Signs:** A sign, flag, banner, pennant, or valance constructed of light weight materials which is not permanently attached to building or land, and which is intended for display for a limited period of time.
33. **Wall Sign:** A sign attached to and parallel with the side of a building.
34. **Window Sign:** A sign painted on or installed inside a window for the purpose of viewing from outside the premises.
35. **Zone Lot:** A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

1003 General Sign and Street Graphics Regulations

a. Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the City of Fremont must comply with the provisions of this chapter, other relevant provisions of the City of Fremont's Municipal Code, and applicable building codes.

b. Resolution of Conflicting Regulations

This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Fremont's Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.

c. Prohibited Signs

The following signs are prohibited in all zoning districts.

1. **Obsolete Signs.** Signs that advertise an activity, business, product or service no longer conducted on the premises on which the sign is located.
2. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
3. **Banners, balloons, posters.** Signs, which contain or consist of banners, balloons, posters, pennants, ribbons, streamers, spinners, or other similarly moving devices, except as specifically provided by Section 1003e. These devices when not part of any sign shall also be prohibited.
4. Signs that create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
5. **Portable Signs.** Signs that are not permanently anchored or secured to either a building or the ground except as provided by Section 1003e.
6. **Off-premise Signs on Public Property.** Off premise signs located on public property which is being used for public purposes.
7. **Flashing Signs.** No flashing, blinking, or rotation lights shall be permitted for either permanent or temporary signs.
8. **Moving Signs.** No sign shall be permitted any part of which moves by any mechanical or electronic means. The prohibition of moving signs does not include multi-prism indexing signs as defined by Section 1002.
9. **Painted Wall Signs.** Off-premise signs painted on building walls.

d. Exempt Signs

The following signs are permitted in any zoning district and are exempt from other provisions of this chapter.

1. **Residential Real Estate or Residential Construction Signs.** Signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed or the progress of a residential rehabilitation or home improvement project. One non-illuminated sign, not to exceed nine square feet, shall be permitted on each premise. Following three years of the effective date of this Ordinance, this maximum size shall be reduced to 6 square feet. Such signs shall not extend higher than four feet above grade level or closer than ten feet from any property line unless located on the wall of a building. Such signs shall be removed within seven days after the disposition of the premises.
2. **Commercial Real Estate Signs.** One non-illuminated sign, not to exceed 32 square feet, shall be permitted on each premise. Such signs shall not extend higher than eight feet above grade level or closer than ten feet from any property line unless located on the wall of a building. Such signs shall be removed within seven days after the disposition of the premises.
3. **Construction Signs.** Signs identifying the architect, engineer, contractor or other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. One non-illuminated sign not to exceed fifty square feet shall be permitted per street frontage. Such sign shall not extend higher than ten feet above grade level and meet the front yard requirement for a principal structure unless located on the wall of a building on the premises or on a protective barricade surrounding the construction. Such signs shall be removed within one week following completion of construction.
4. **Political Campaign Signs.** Signs announcing candidates seeking public political office or pertinent political issues. Such signs shall be removed within one week following the election to which they pertain and are subject to the following regulations:
 - (a) **Residential Districts.** Temporary signs 6 square feet in area or less for campaign purposes may be located on private property or in the area between the sidewalk and the curb provided said signs are at least two feet (2') back of the curb and do not obstruct traffic. Said signs may be in place for up to sixty (60) days.
 - (b) **Urban Corridor, Commercial and Industrial Districts.** Temporary signs for campaign purposes which are less than nine (9) square feet in area may be erected on private property or in the area between the sidewalk and the curb provided said signs are at least two feet (2') back of the curb and do not obstruct traffic. Said signs may be in place for up to sixty (60) days. Temporary signs for campaign purposes over nine (9) square feet in area and under thirty-two (32) square feet in area may be located on private property if located so as not to obstruct traffic and for a period of time not to exceed sixty (60) days.
5. **Street Banners.** Signs advertising a public event, providing that specific approval is granted under regulations established by the City Council.

6. **Seasonal Decorations.** Signs pertaining to recognized national holidays and national observances.
7. **Public Signs.** Signs of a noncommercial nature and in the public interest, erected by or upon the order of a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and other similar signs, including signs designating hospitals, libraries, schools and other institutions or places of public interest or concern.
8. **Integral Signs.** Signs for churches or temples, or names of buildings, dates of erection, monumental citations, commemorative tablets and other similar signs when carved into stone, concrete or other building material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure to which they are attached.
9. **Window Signs.** Such signs which are displayed inside of a window or within a building, provided, however, that neon window signs shall be permitted only in those districts where neon signs are permitted.
10. **Works of graphic art** painted or applied to building walls, which contain no advertising or business identification messages.
11. **Residential signs** under 2 square feet in size.
12. **Neighborhood or subdivision identification signs** under 50 square feet.
13. **Signs which are not visible** from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.
14. **Bulletin boards for religious assembly and school use,** provided that they have a maximum area of 32 square feet.
15. **Athletic Field Signs.** Banners for team and league sponsors may be placed on perimeter fences facing toward the field of play. Such banners shall only be placed one hour prior to through one hour following the athletic event and shall be immediately removed in the event of a wind storm. Such banners shall not promote alcohol or tobacco products in any way.

A semi-permanent sponsor recognition board/boards may be used in place of banners with the permission of the Parks and Recreation Board and approval of a conditional use by the Planning Commission and City Council. Recognition boards may be attached to existing structures or mounted on semi-permanent supports. Such recognition boards shall be limited to 32 sq. ft. in aggregate size and shall not exceed eight foot in total height. Such recognition boards shall be maintained in an attractive condition and all lettering shall be of professional quality. The league using the board/boards may be identified with removable lettering not to exceed 4 inches in height. Sponsor lettering shall contain only the sponsor's name, not exceed 2.5 inches in height and be removable. Logos or other forms of advertising shall not be permitted. Lettering promoting the league or league sponsors shall only be displayed one hour prior through one hour following the athletic event. The promotion of alcohol or tobacco products on this board is prohibited. Semi-permanent recognition boards and supports may be erected no

sooner than one week prior to the league season and must be removed no later than one week following the league season.

Seasonal banners for team and league sponsors may be placed on perimeter fences of athletic fields facing toward the field of play when approved by the City Council in non-residential zoning districts. Such banners shall not promote alcohol or tobacco products in any manner.

Permanent off premise signs may be included as part of a scoreboard or other similar permanent fixtures for any athletic field when approved by the City Council.

e. Temporary Commercial Signs

1. Permit Required. All temporary signs not listed in Section 1003d but falling within the definition of temporary signs shall be classified as Temporary Commercial Signs. Only temporary portable signs mounted on wheels or trailers without wheels shall obtain a Temporary Sign Permit from the City of Fremont prior to any repair, alteration, relocation, or maintenance of such a sign.
2. A temporary sign may remain in place for a period of 12 months from the date of erection.
3. Size Limitations of Temporary Signs. The location of both temporary civic and temporary commercial signs shall comply with the following regulations:
 - (a) The total amount of temporary signage permitted on any premise shall be the lesser of 5% of the area of all street facades or 100 square feet. Street facades include any building facades visible from and oriented to public streets.
 - (b) The maximum size of a temporary sign shall be 50 square feet in area. Temporary commercial signs shall be no smaller than 8 square feet.
 - (c) The maximum size of a temporary portable sign mounted on wheels or a trailer without wheels shall be 32 square feet in area. Such signs may be located on a site for a maximum of 30 consecutive days and shall be located on any single site no more than two times per year.

4. Location Requirements for Temporary Signs

- (a) Temporary signs shall not be attached to any public utility pole or trees on either public or private property.
- (b) Temporary Commercial Signs are prohibited in any public right-of-way or property, including streets, sidewalks, parks, and public facilities.
- (c) Temporary signs shall not be located within the Vision Clearance Triangle defined in Section 1003f.
- (d) Temporary signs shall not interfere with any public right-of-way, driveway or access way, or any means of access or egress to any building.

- (e) Any temporary sign attached to a building shall be affixed only to vertical facades and shall not be attached to roofs, roof extensions, cornices, overhangs, or other building extensions.

5. Condition of Temporary Signs.

- (a) All temporary signs shall be maintained in sound condition. Any sign that exhibits deterioration of structure or materials may be removed subject to the provisions of this section.
- (b) The City Administrator and his/her authorized officers shall order the removal of any sign not in compliance with any provisions of this section. If the owner of the premise on which such sign is located, or the owner of the sign if unlawfully located on public property, fails to remove such sign, the City Administrator and his/her officers shall be authorized to remove the sign. Any costs of removal of a sign on private property shall be assessed to the owner of the property. Any such removal shall also result in the immediate cancellation of any outstanding temporary sign permit.

6. Permit Application

- (a) An applicant for a Temporary Commercial Sign shall complete a form developed by the City and shall pay an annual fee established by resolution of the City Council.
- (b) The application shall include a photograph of all street facades along with the dimensions of all such facades.
- (c) The Building Official shall verify this information as required and establish in the permit the maximum area of temporary signage that may be installed on the premises.

f. Vision-Clearance Area

No sign may project into or be placed within a vision-clearance area defined by a triangle with legs of thirty feet from the point at which the rights-of-way of two intersecting streets, private ways or alleys, or fifteen feet from the point at which the rights-of-way of intersecting street, and driveway or sidewalk, meet, except, that signs employing a single pipe or column, maximum 16 inches in diameter or 12 inches square, may be allowed in the vision clearance area provided the sign board is a minimum ten feet off grade subject to site plan review. Directional signs not exceeding three (3) feet in height and not exceeding four (4) feet in length may be permitted in the vision clear zone provided the sign is primarily directional in nature. Property name, logo and/or address may be included in directional signs in the vision clear zone provided the majority of the sign remains directional in nature.

g. Maintenance

All signs shall be maintained in a good state of repair, including, but not limited to, the structural components, the lighting, if any, the portion attaching the sign to the ground or structure, and the surface features.

All signs and billboards shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish. After thirty day's notice and failure to do so, the City shall remove the sign and assess the charges to the owner.

h. Nonconformance and Amortization

Where a sign exists at the effective date of adoption or amendment of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such sign may be enlarged or altered in a way, which increases its nonconformity; however, reasonable repairs and alterations may be permitted.
2. Should such a sign be destroyed by any means to an extent of sixty percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.
3. Within any zoning district, all premise identification signs or other signage that pertains to the premises on which such sign is located shall comply fully with the provisions of this Ordinance, unless otherwise provided, within fifteen years after the effective date of this Ordinance. This amortization provision does not apply to outdoor advertising signs, provided that such signs remain in continuous use. Any nonconforming outdoor advertising sign that remains unused for a continuous period of 180 days shall forfeit its right to continue as a nonconforming use.
4. An existing outdoor advertising sign on a site may be replaced by a new outdoor advertising sign, provided that:
 - (a) The sign area of the new sign does not exceed the sign area of the existing sign that is being replaced.
 - (b) The sign structure utilizes a mono-pole structure design that is structurally rated to accommodate the sign.
5. No variance shall be considered for sign size budget when said variance involves a site that includes an existing outdoor advertising sign as referred to in Article 1003-h-4 that is nonconforming due to size.

i. Temporary and Civic Signs

1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
 - (a) Such signs are subject to the permit procedures set forth in this section.
 - (b) The size of such signs does not exceed the limitations set forth in Table 10-3.
 - (c) No more than one such sign is permitted at any single premises.

- (d) Temporary or portable signs may be present at any single premises for a maximum of 30 days per year.
- 2. Temporary signs for non-profit civic campaigns or events, , or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements:
 - (a) Such signs are installed no earlier than 30 days before the date of the event and removed no later than 7 days after the date of the event.
 - (b) The maximum size of such signs is 32 square feet when located in any residential and LC Limited Commercial zoning district and 100 square feet in any other zoning district.

1004 General Regulations: Basic Design Elements for On-premise Signs

General sign regulations shall be as set forth in Section 1004,

a. Conformance Required

Except as may be hereinafter specified, no sign shall be erected, placed, maintained, converted, enlarged, reconstructed or structurally altered which does not comply with all of the regulations established by this title.

b. Maintenance

All signs shall be maintained in a good state of repair, including, but not limited to, the structural components, the lighting, if any, the portion attaching the sign to the ground or structure, and the surface features.

c. Nonconformance and Amortization

Where a sign exists at the effective date of adoption or amendment of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1. No such sign may be enlarged or altered in, a way which increases its nonconformity; however, reasonable repairs and alterations may be permitted.
- 2. Should such a sign be destroyed by any means to an extent of sixty percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.
- 3. Within any zoning district, all signage shall comply fully with the provisions of this Ordinance, unless otherwise provided, within fifteen years after the effective date of this Ordinance.

1005 General Permit Procedures

a. Applicability

1. A sign permit, approved by the zoning administrator, shall be required before the erection, construction, alteration, placing, or locating of all signs conforming with this title.
2. A permit shall not be required for repainting without changing permanent wording, composition, or colors; or nonstructural repairs.

b. Plans Submittal

A copy of plans and specifications shall be submitted to the zoning administrator for each sign regulated by this title. Such plans shall show sufficient details about size of the sign, location and materials to be used and such other data as may be required for the zoning administrator to determine compliance with this title.

c. Appeals

Any person or persons aggrieved by the decision of the zoning administrator to approve or disapprove a sign permit, as provided by this title, may appeal such decision to the Board of Adjustment as provided by Section 17.1206 of this title.

d. Application Fees

Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council from time to time by resolution.

1006 Method of Measurement for Regulators

a. Maximum Permitted Sign Area

Maximum permitted sign area for a premises is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.

b. Sign Area

1. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.
2. The area of double-faced signs is calculated on the largest face only.
3. The sign area for ground signs, monument signs, and architectural sign bands are calculated as the area enclosing the extreme limits of the copy only.

4. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.
5. In the case of a multi-prism indexing sign, sign area is calculated as the area within the perimeter enclosing the extreme limits of the sign face, regardless of the number of individual messages displayed on the sign.

c. Height

The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.

d. Setback

The setback of a sign is measured from the property line to the line projected to the ground plane of the nearest portion of the sign.

1007 Permitted Sign Types by Zoning Districts

Table 10- 1 sets forth the sign types permitted within each zoning district of the City of Fremont.

1008 Auxiliary Design Elements

Table 10-2 sets forth auxiliary design elements permitted within each zoning district of the City of Fremont.

1009 Maximum Permitted Sign Area

Table 10-3 sets forth the maximum sign area permitted within each zoning district of the City of Fremont.

1010 Permitted Signs by Numbers, Dimensions, and Location

Table 10-4 sets forth the maximum permitted numbers of signs per premise; the maximum permitted dimensions of each sign; and the required setbacks for detached signs.

The maximum size of a detached sign in a GC, LI or GI District may be increased to 400 square feet for signs located within 200 feet of a Federal or State highway designated by the Nebraska Department of Roads as either a freeway or expressway with controlled access points of at least $\frac{1}{4}$ mile intervals. This increase in sign size does not include Broad Street, from the Platte River to the US 30 Bypass Interchange and 23rd Street, from the East US 30/275 Bypass to the West US 30 Bypass.

Table 10-1: Permitted Signs by Type and Zoning Districts

Sign Types	AG	RR	RL	R-1	R-2 R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI
Detached Signs															
Residential	P	P	P	P	P	P	P	P	P	P	N	N	N	N	N
Directional	P(C)	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P	P	P	P	P
Ground	P	P(C)	P	P(C)	P(C)	P	P	P	P	P	P	P	P	P	P
Pole	N	N	N	N	N	N	N	P	N	P	N	P	N	P	P
Attached Signs															
Awning	N	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Banner	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Building Marker	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Canopy	N	N	N	N	N	N	P	P	P	P	P	P	P	P	P
Incidental	P(C)	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	N	P	P	P	P	P	P	P	P	P
Projecting	N	N	N	N	N	N	N	P	N	P	P	P	P	P	P
Roof, Integral	N	N	N	N	N	N	N	P	N	P	P	P	P	P	P
Roof, Above Peak	N	N	N	N	N	N	N	N	N	N	N	N	N	P	P
Wall	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Window	N	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Miscellaneous															
Flag	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P	P	P
Portable	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	N

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

Table 10-2 Permitted Signs by Type and Zoning Districts

Sign Types	AG	RR	RL	R-1	R-2, R-3	R-4	R-5	UC	LC	CC	DC	GC	BP	LI	GI
Design Element															
Illumination															
Indirect	P(C)	P(C)	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P	P	P	P
Direct	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Internal	P(C)	P(C)	P	P(C)	P(C)	P(C)	P	P	P	P	P	P	P	P	P
Neon	N	N	N	N	N	N	N	P	N	P	P	P	N	P	P
Flashing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Flame	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Bare Bulb	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Other															
Electronic Information	N	N	N	N	N	N	N	P	P	P	P	P	P	P	P
Moving	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Rotating	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Multi-Prism Indexing	N	N	N	N	N	N	N	P	P	P	P	P	P	P	P

P: Permitted for All Uses

P(C): Permitted for Civic Uses

N: Not Permitted

Table 10-3: Permitted Signs by Maximum Permitted Area and District

This Maximum Permitted Area for all signs on a premise excluding incidental signs, building marker signs, and flags shall not exceed the lesser of the following:

Zoning District	AG	RR R-1 R-2 RL	R-3 R-4 R-5	LC UC	CC	DC	GC	BP	LI GI
Square Feet of Signage per Linear Foot of Frontage	NA	NA	NA	0.75	1.50	1.5	2.0	1.5	2.0
Maximum Total Square Feet	Note 1	Note 2	Note 3	300 Note 4	500 Note 5	200	700	500	700

Note 1:

200 square feet for civic or commercial uses, 2 square feet for residential uses, including home occupations.

Note 2:

50 square feet for project identification signs; 32 square feet for civic uses, 2 square feet for residential uses, including home occupations.

Note 3:

32 square feet for civic uses, 50 square feet for project identification signs for multi-family or mobile home developments and for non-residential uses when permitted, 2 square feet for residential uses, including home occupations.

Note 4:

Maximum limits apply to non-residential premises only. On premises with primary residential use, 50 square feet for project identification signs for multi-family developments, 2 square feet for residential uses, including home occupations.

Note 5:

One Business Center Identification Sign with a maximum area of 100 square feet is permitted in addition to the Maximum Total Square Feet established here, subject to the regulations set forth by Table 10-4.

Table 10-4: Permitted Signs by Numbers, Dimensions, and Location

Each individual sign shall comply with the regulations for maximum quantity, maximum size, minimum setbacks, and height limits shown in this table:

Zoning District	AG	RR R-1 R-2 RL	R-3 R-4 R-5	LC UC (Note 1)	CC (Note 1)	DC (Note 1)	GC (Note 1)	BP (Note 1)	LI GI (Note 1)
DETACHED SIGNS									
Number Permitted Per Premise	1	1	1	1	NA	1	NA	NA	NA
Per Feet of Frontage of Property	NA	NA	NA	NA	1 per 300	NA	1 per 300	1 per 300	1 per 300
Maximum Size* (sq. ft.)	100 *	x	x	100	200	100	300	200	300
Maximum Height (feet) of Structure Above Ground	25	10	10	10	25	25	35	20	35
Front Yard Setback (feet)	25	10	10	10	10	0	5	5	0
Side Yard Setback (feet)	10	10	10	10	5	0	5	5	0
ATTACHED SIGNS									
Maximum Size* (sq. ft.)	100	x	x	50	NA	NA	300	300	300
% of Street Façade	NA			20%	20%	20%	20%	20%	20%

x See Table 10-3 for maximum sign sizes.

Note 1:

In addition to its total permitted sign area, each premises used for a business center may have one detached center identification sign, subject to the following conditions:

- The maximum area for a center identification sign shall be 100 square feet.
- No center identification sign shall be within 300 feet of any other center identification sign or within 150 feet of any other detached sign on the same or adjacent premises.
- The sign shall display no more than the name and location of the business center.
- Each sign shall be subject to all other regulations for detached signs or graphics set forth in this Article.

Note 2:

The size of building or wall signs may be increased in proportion to the setback if the building setback is more than 120 feet from the street frontage lot line, by one-half percent increase per foot of setback beyond such 120-foot line, with a maximum increase of 50 percent. This permitted increase is in addition to the overall premise sign budget indicated in Table 10-3; however, the entire premise sign budget shall not exceed 1,000 feet.

Note 3:

If the premise has more than one street frontage, then the detached sign provisions apply separately to each frontage, within the overall sign budget.

11

ARTICLE ELEVEN

NONCONFORMING DEVELOPMENT

1101 Purpose

Article Eleven shall be known as the Nonconforming Development Regulations. The purposes of these regulations are:

- a. To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.
- b. To provide for reasonable use of legally constructed structures, which do not meet current site development regulations for their respective zoning districts.
- c. To allow for the reasonable continuation of legally established uses, which do not meet current use regulations for their respective zoning districts.
- d. To limit the continuation and provide for the gradual replacement of nonconforming uses.

1102 Regulations Additive

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

1103 Nonconforming Lots

a. Pre-Existing Lots of Record

Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Regulations.

b. Reductions Due to Public Acquisition

If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

1104 Nonconforming Structures

These regulations apply to buildings and structures, which were constructed legally under regulations in effect before the effective date of these Regulations.

a. Continuation

A lawful nonconforming structure existing on the effective date of this Title may be continued, repaired, maintained, or altered, subject to the provisions of this Section.

b. Additions or Enlargements to Nonconforming Structures

1. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:
 - a. The enlargement or addition, when considered independently of the existing building complies with all applicable setback, height, off-street parking, and landscaping requirements.
 - b. The nonconforming building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.
 - c. The addition projects no further into a required side yard setback than the existing building; the length of the side wall of the addition is the smaller of 25 feet or 50 percent of the length of the existing nonconforming side wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.
2. No permitted addition to a nonconforming structure may place a wall within ten feet of a window of an adjacent pre-existing residential structure.
3. Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.

c. Moving of Nonconforming Structures

A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

d. Destruction and Reconstruction

Any nonconforming building which has been damaged by fire, flood, wind, riot or any other cause to an extent of sixty percent or than more of its replacement value exclusive of land, at the time of such damage or destruction, shall not be reconstructed except in conformance with the provisions of this chapter. If damage is less than sixty percent, it may be restored and used as before, provided that such restoration is commenced within twelve months. If construction is not commenced within twelve months, the use of such land or building shall thereafter conform with the provisions of this chapter.

e. Conversion of a Conforming Building

A conforming building shall not be changed in any way that will result in a nonconforming development.

f. Applicability of Landscaping and Screening Regulations

A pre-existing structure, building, or development shall be exempt from Article Eight, Landscaping and Screening Regulations. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of these Regulations shall be subject to Article Eight.

1105 Nonconforming Uses

a. Continuation of Nonconforming Uses

1. Any nonconforming use lawfully existing on the effective date of these regulations may continue, subject to the limitations of this Section.
2. Whenever the use of a premise becomes nonconforming through a subsequent change in the zoning ordinance or zoning district boundaries, such use may be continued or changed to another nonconforming use of the same or lesser intensity with the approval of the City Council, following a public hearing and recommendation of the Planning Commission.

b. Change of Nonconforming Uses

A nonconforming use may be changed to another nonconforming use of the same or lesser intensity, provided an application for such change is first approved by the City Council after public hearing and recommendation of the Planning Commission. At least five days prior to the Planning Commission meeting at which the request will be heard, a notification of the request shall be sent by certified mail to:

1. The property owners adjacent on the sides and rear within 100 feet of the property subject to the request.
2. The property owners extending 100 feet from the street frontage of the opposite lots from the request.

c. Enlargement of Nonconforming Uses

A building or structure housing a lawful nonconforming use may not be added to or enlarged. Provided, however, that nonconforming uses may be reconstructed or extended if an application for such change is first approved by the City Council after public hearing and recommendation of the Planning Commission. At least five days prior to the Planning Commission meeting at which the request will be heard, a notification of the request shall be sent by certified mail to:

1. The property owners adjacent on the sides and rear within 100 feet of the property subject to the request.
2. The property owners extending 100 feet from the street frontage of the opposite lots from the request.

In consideration of such applications, the following criteria shall be given specific consideration:

1. Effects on adjacent property, traffic, city utility service needs;
2. Density of land use for the subject property and the adjoining properties; and,
3. The degree of hardship which would be caused by failure to grant the request.

d. Abandonment of Nonconforming Use

1. If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of twelve months, any subsequent use must conform to all use regulations applicable to the property's zoning district.

2. If any structure or property used as a lawful nonconforming use comes into conformance with the use regulations of its zoning district, any subsequent use must also conform to all use regulations applicable to the property's zoning district.

e. Allowance for Repairs

Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

f. Damage or Destruction of Structures

Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 60 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

g. Nonconforming Uses and Conditional Use Permits

A lawful pre-existing use which would require a Conditional Use Permit in its zoning district shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Article 12.

12

ARTICLE TWELVE

ADMINISTRATION AND PROCEDURES

1201 Purpose

The Administration and Procedures Provisions establish the methods for implementation of the Zoning Regulations. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Regulations; and granting variances.

1202 Site Plan Review Procedure

a. Purpose

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Fremont Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

b. Administration

The Zoning Administrator, or his/her designee shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Board of Adjustment.

c. Uses Requiring Site Plan Review

All uses indicated as subject to Site Plan Review in Table 4-2 are subject to the provisions of this section, unless otherwise subject to a Conditional Use Permit procedure for specific zoning districts.

d. Application Requirements

An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address, and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - c) The location, size, and use of proposed and existing structures on the site.

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d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.

e) Location of any major site feature, including drainage and contours at no greater than five foot intervals.

f) Any other information that may be required for review by the Zoning Administrator, or his/her designee.

e. Administrative Action and Appeal

The Zoning Administrator, or his/her designee must act upon each complete application within twenty working days of filing. An applicant may appeal a denial to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.

f. Review and Evaluation

1. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in these Zoning Regulations.

2. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall make the following findings before approval of the site plan:

a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12-1.

b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.

c) The site plan conforms to the Zoning Regulations.

g. Modification of Site Plan

The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void two years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.

2. The Zoning Administrator, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 12-1.

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3. The Zoning Administrator, or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

i. Approval to Run With Land

An approval pursuant to this section shall run with the land until the expiration date of such approval.

1203 Conditional Use Permit Procedure

a. Purpose

The Conditional Use Permit Procedure provides for public review, Planning Commission recommendation, and discretionary City Council approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

b. Administration

The Zoning Administrator shall be responsible for the administration of the Conditional Use Permit Procedure. The Planning Commission shall review and evaluate each application and shall transmit its recommendation to the City Council. The City Council shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

c. Application Requirements

An application for a Conditional Use Permit may be filed with the Zoning Administrator by the owner(s) of a property or the owners' authorized agent. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

d. Approval Process

1. The Planning Commission, following proper notice, shall hold a public hearing on each Conditional Use Permit and, following such public hearing, shall recommend action to the City Council.
2. The City Council, after publication and public hearing, shall act on the Conditional Use Permit. A majority vote of those members either elected or appointed to the City Council is required for approval. The City Council may apply any reasonable conditions to the approval of the permit.

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e. Criteria for Review

1. The Planning Commission and City Council shall review and act upon the application based on the criteria established in Table 12-1 and conformance with applicable regulations in these Zoning Regulations.

f. Scope of Approval

1. The City Council may, at its discretion, apply a Conditional Use Permit to a specific owner or applicant. The City Council may establish special site development or operational regulations as a condition for approval of a Conditional Use Permit.

2. The City Council shall not grant a Special Use Permit for any home occupation/homebased business which is otherwise prohibited under Section 611 of these Regulations.

g. Lapse and Revocation of Permit

1. A Conditional Use Permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.

2. The City Council may revoke a Conditional Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

h. Previously Approved Permits

Any special use approved under regulations in effect before the effective date of these Regulations shall be considered to have a valid Conditional Use Permit, subject to requirements imposed at the time of its approval.

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Table 12-1: Criteria For Site Plan Review And Conditional Use Permits

Land Use Compatibility	CRITERIA	APPLIES TO	
		Site Plan Review	Conditional Use Permit
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.		X
Height and Scale			
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X	X
Building Coverage	Building coverage should be similar to that of surrounding development of possible. higher coverage should be mitigated by landscaping or site amenities.	X	X
Site Development			
Frontage	Project frontage along a street should be similar to lot width.	X	X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X	X
	All structures must be accessible to public safety vehicles.	X	X
Landscaping	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points. Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainageways should be preserved.	X	X
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations		X
Operating Characteristics			
Traffic Capacity	Project should not obstruct traffic on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X

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Table 12-1: Criteria For Site Plan Review And Special Use Permits

Operating Characteristics	CRITERIA	APPLIES TO	
		Site Plan Review	Conditional Use Permit
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
Public Facilities			
Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
Storm Water Management	Sanitary sewer must have adequate capacity to serve development.	X	X
	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	X	X
Utilities	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X	X
	Project must be served by utilities.	X	X
	Rural estate subdivisions should be located in designated areas which can accommodate utility and infrastructure installation consistent with the need to protect the environment and public health.	X	X
Comprehensive Plan	Projects should be consistent with the City of Fremont's Comprehensive Development Plan.		X

1204 Amendment Procedure

a. Purpose

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Regulations (text amendment) and/ or the official boundaries of zoning districts (rezoning).

b. Initiation of Amendments

1. Text amendments may be initiated by the Planning Commission or City Council.
2. Rezoning may be initiated by a property owner or authorized agent; the Planning Commission; or the City Council.

c. Rezoning Application Requirements

An application for a rezoning may be filed with the Zoning Administrator, or his/her designee. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

d. Amendment Process

1. The Planning Commission, following ten days notice and publication, shall hold a public hearing on each proposed text or rezoning and, following such public hearing, shall recommend action to the City Council. A vote either for or against an amendment by a majority of all Planning Commission members shall constitute a recommendation to the City Council. A vote either for or against an amendment by less than a majority of all Planning Commission members shall constitute a failure to make a recommendation to the City Council.
2. The City Council, after publication and public hearing, shall act on the proposed amendment. A majority vote of those members either elected or appointed to the City Council is required for approval.
3. Protest: If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners, pursuant to Section 19-905 R.R.S. 1943 (Reissue 1991), a majority vote plus one of those members either elected or appointed to the City Council is required for approval. A valid protest petition must meet the following criteria:

a) Submission of the petition in the office of the City Clerk within fourteen (14) days after the conclusion of the public hearing on the amendment by the Planning Commission.

b) Notarized signatures by at least one of the following:

- 1) The owner or owners of at least 20% of the property proposed for rezoning.

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2) The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the city and within 100 feet of the proposed rezoning.

e. Required Notice and Publication

Prior to consideration of amending, supplementing, changing, modifying, or repealing these regulations by the governing body, notice of public hearings shall be provided by two of the three following methods, as determined by the City:

1. Notice By Posted Sign: A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

2. Publication: At least ten days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Fremont a Notice of the time, place and subject matter of such hearing.

3. Notification by Mail: At least ten days prior to the date of hearing, the party initiating the rezoning request shall present the City Clerk a certified address list of those persons who own property within 100 feet of the subject site. The City Clerk shall mail notice of the time, place and subject matter of the hearing to such property owners at least ten days prior to the date of the hearing. In addition, the City of Fremont shall provide for the following:

4. Notification By Mail of School District: The City Clerk shall mail notice of the time, place and subject matter of any Planning Commission rezoning hearings to the School District Administrative Official and/or Chair of the Board of Education, within whose boundaries the subject site is located. The notification shall be submitted to the applicable official and/or Board of Education at least ten days prior to the date of such meeting. Each school district to be affected by such rezoning proposal shall be notified.

1205 Extension of the Extra-Territorial Jurisdiction

Upon the automatic extension of the two-mile Extra-Territorial Jurisdiction due to annexation, the City Council with the recommendation of the Planning Commission shall zone properties within the newly established Jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Fremont and the present use of the land.

1206 Building Permits and Certificates of Zoning Compliance

a. Administration and Enforcement

The Zoning Administrator shall administer and enforce these regulations. The City Council may direct other persons to assist him/her.

If the Zoning Administrator, or his/her designee shall find that any of the provisions of these regulations are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/ she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done;

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or shall take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.

b. Building Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of these regulations, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by these regulations.

c. Application for Building Permit

All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of these regulations.

One copy of the plans shall be returned to the applicant by the administrative official, after he/she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.

d. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of these regulations.

e. Expiration of Building Permit

1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected.

2. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

3. The expiration date of a building permit may be established for a period longer than two years if established at the time that such permit is issued by the City. The Zoning Administrator, or his/her designee may, at his/her discretion extend the expiration period of the building permit.

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f. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of these regulations, and punishable as provided by Section hereof.

1207 Schedule of Fees, Charges and Expenses.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to these regulations.

The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1208 Board of Adjustment

a. Establishment

1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of five regular members, plus one additional alternate member who shall attend and vote only when one member is unable to attend for any reason.

2. Each member shall be appointed by the Mayor with the approval of the City Council for a three-year term and is removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member of the Board shall be appointed from the Planning Commission, and the loss of membership on the Commission by such member shall also result in his/her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board.

3. The Board of Adjustment shall adopt rules and regulations in accordance with these regulations and the laws of the State of Nebraska pursuant to Sections 19-901 to 19-914 of Nebraska State Statutes. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A majority of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment through the office of the Zoning Administrator in written form as determined by the Zoning Administrator. An appeal stays all proceedings in furtherance of the action, unless the Zoning Administrator certifies to the Board

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that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.

2. The Board shall provide a minimum of ten days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; by publication in a newspaper of general circulation in the City of Fremont; and by written notice to the appealing party.

3. Upon the public hearing, any party may appear in person or by agent or attorney. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such regulations.

1209 Powers and Duties of the Board Of Adjustment

The Board of Adjustment shall have only the following powers and duties:

a. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Zoning Administrator, or his/her designee in the enforcement of these regulations or any regulation relating to the location or soundness of structures

b. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

c. Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it finds that:

(a) Strict application of the zoning regulations will produce undue hardship.

(b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.

(f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 1209c(l) have been met by the applicant for a variance.

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3. Conditions for Grant of Variance.

(a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under Section 1214 of these regulations.

(b) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

(c) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

d. Board has Powers of Zoning Administrator on Appeals: Reversing Decisions of Zoning Administrator

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variation in the application of these regulations.

1210 Appeals from the Board of Adjustment.

Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1991), and amendments thereto.

1211 Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal.

a. It is the intent of these regulations that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.

b. Under these regulations the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of these regulations as provided by law, (2) of establishing a schedule of fees and charges as stated in Section 12 of these regulations, and (3) of directing a city officer to appeal a decision of the Board of Adjustment.

1212 Severability Clause.

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

1213 Complaints Regarding Violations.

Whenever a violation of this ordinance occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

1214 Penalties for Violation.

- a. Any person, firm, or corporation violating any provision of the Zoning Regulations of the City of Fremont, Nebraska, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for each offense, and any actual costs or expense incurred by the City as a result of said offense shall be taxed as costs as a part of the judgment of conviction.
- b. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- c. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.